

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PPG INDUSTRIES, INC.

AI# 1255

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

\* Enforcement Tracking Numbers  
\* WE-CN-01-0097  
\* WE-CN-01-0097A  
\* MM-CN-02-0037  
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SETTLEMENT

The following Settlement is hereby agreed to between PPG INDUSTRIES, 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 which owns and operates an organic and inorganic chemicals facility located at 1300 PPG Drive in Lake Charles, Calcasieu Parish, Louisiana ("the Facility").

II

On December 7, 2001, and August 29, 2003, the Department issued Consolidated Compliance Order and Notice of Potential Penalty (CONOPP), Enforcement No. WE-CN-01-0097, and Amended CONOPP, Enforcement No. WE-CN-01-0097A to Respondent, which were based on the following Department's findings of fact:

Respondent was issued National Pollutant Discharge Elimination System (NPDES) permit LA0000761 from the Environmental Protection Agency (EPA) effective January 1, 1987,

and which expired on December 31, 1991; however, the permit was administratively continued. The Respondent was issued a permit modification on or about July 1, 1991, with the same expiration date. In accordance with the assumption of the NPDES program by the state, NPDES permit LA0000761 became Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0000761 on or about August 27, 1996. Respondent is authorized to discharge certain quantities and/or qualities of wastewater into Bayou D'Inde, Bayou Verdine, and the Calcasieu River and Ship Channel, all waters of the state. Respondent submitted an updated LPDES permit application to the Department in 1991, in 1997, and in 2004.

An inspection conducted by the Department on or about June 26, 2001, and a subsequent file review conducted by the Department on or about June 18, 2002, disclosed the following effluent violations as reported to the Department by the Respondent on Discharge Monitoring Reports (DMRs) for the monitoring periods of March 2000 through June 2002:

Monitoring Period	Outfall	Parameter	Permit Limit	Sample Result
March 2000	501	Hexachlorobenzene	0.00034 lbs/day (max)	0.00074 lbs/day
			0.022 µg/L (max)	0.08 µg/L
July 2000	201	Total Copper	18.2 lbs/day (avg)	20.2 lbs/day
			49.3 lbs/day (max)	92.8 lbs/day
September 2000	201	TSS	4,270 lbs/day (avg)	4,658 lbs/day
			11,465 lbs/day (max)	16,246 lbs/day
November 12, 2000	101	TSS	3,021 lbs/day (max)	3,700 lbs/day
January 2001	501	Hexachlorobenzene	0.00010 lbs/day (avg)	0.00012 lbs/day
			0.00034 lbs/day (max)	0.00161 lbs/day
			0.006 µg/L (avg)	0.007 µg/L
			0.022 µg/L (max)	0.100 µg/L
February 2001	004	pH	6.0-9.0 S.U.	2.1 S.U.
		pH excursions >60 minutes	0 occur/month	1 occur/month (79 minutes)
March 2001	501	Hexachlorobenzene	0.00034 lbs/day (max)	0.00073 lbs/day
			0.022 µg/L (max)	0.05 µg/L
April 2001	101	Total Mercury	0.30 lbs/day (max)	0.93 lbs/day

May 2001	001	pH	6.0-9.0 S.U.	9.7 S.U.
		pH excursions >60 minutes	0 occur/month	1 occur/month (139 minutes)
	501	Hexachlorobenzene	0.00034 lbs/day (max) 0.022 µg/L (max)	0.00122 lbs/day 0.070 µg/L
June 2001	001	pH	6.0-9.0 S.U.	10.5 S.U.
		pH excursions >60 minutes	0 occur/month	1 occur/month (312 minutes)
August 2001	101	Total Mercury	0.30 lbs/day (max)	0.32 lbs/day
March 2002	501	Hexachlorobenzene	0.00034 lbs/day (max) 0.022 µg/L (max)	0.00067 lbs/day 0.050 µg/L
		101	Total Mercury	0.30 lbs/day (max)
June 2002	501	Hexachlorobenzene	0.00010 lbs/day (avg) 0.00034 lbs/day (max) 0.006 µg/L (avg) 0.022 µg/L (max)	0.00222 lbs/day 0.01566 lbs/day 0.034 µg/L 0.286 µg/L

The Department's findings are that each permit excursion is in violation of LPDES permit LA0000761 (Part I, Pages 1, 2, 3, 4, 5, 6, 7, 8, 9, 14, 15, 16, 17, 19, and 20, Part II, Section C, 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.2355.A.

### III.

In response to Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. WE-CN-01-0097, Respondent made a timely request for a hearing.

### IV.

On February 24, 2003, the Department issued Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-02-0037, to Respondent, which included the following Department's findings of fact:

The Respondent is authorized to discharge certain quantities and/or qualities of wastewater into Bayou D'Inde, Bayou Verdine, and the Calcasieu River and Ship Channel, all

waters of the state. The Respondent is a permitted hazardous waste treatment, storage and disposal facility and bears the EPA identification number LAD 008 086 506. The facility operates under numerous Air Quality Permits for various units within the facility.

On or about September 10-14, 2001, representatives of the Department performed a multi-media Compliance Evaluation Inspection (CEI) of the facility. The following violations were found during the course of this inspection:

- A. 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 to include "less than 90-day storage in tanks", in violation of LAC 33:V.1105.B.
- B. The Respondent used an average flow weight to conduct loading calculations while the flow recorder was out of service. The permit requires continuous flow measurement. The Respondent's failure to continuously monitor flow is in violation of LPDES permit LA0000761 (Part I, Pages 3, 6, 9, 17, Part II, Sections A.1 and C.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, and LAC 33:IX.2355.A. Subsequent to the issuance of the CONOPP, The Respondent stated that this procedure had been approved by the EPA permit writer for time periods, such as this case, where the flow meter was out of service due to being struck by lightning; however, the Department has not received any written documentation regarding this discussion.
- C. The Respondent did not carry out approved housekeeping practices in the mercury cell unit as required by 40 CFR 61.53(c)(4) when using a shop vacuum to clean spilled mercury and when documenting leaks and spills of mercury at the

facility. This is a violation of 40 CFR 61.53(c)(4), Subpart E which language has been adopted as a Louisiana regulation in LAC 33:III.5116 and Section 2057(A)(2) of the Act.

- D. The Respondent failed to maintain complete records of all leaks and spills of mercury at the facility as required by 40 CFR 61.55(d). This is a violation of 40 CFR 61.55(d), Subpart E which language has been adopted as a Louisiana regulation in LAC 33:III.5116 and Section 2057(A)(2) of the Act.
- E. A cap, blind flange, plug, or second valve was not sealing the open-ended line near component A0748 near the OHC Product Pump and at component A0966 near the Dec Rework Pump in the TE-II Unit. Open ended lines are required to be sealed when in operation as required by 40 CFR 63.167(a)(2). This is a violation of 40 CFR 63.167(a)(2), Subpart G which language has been adopted as a Louisiana regulation in LAC 33:III.5122 and Section 2057(A)(2) of the Act.

On or about October 5, 2001, the Department was in receipt of the response dated October 5, 2001, addressing the multimedia inspection. According to the response, an exit meeting was held on September 18, 2001. The Respondent provided a table summarizing the Department's comments from the audit. The Respondent decided to eliminate all existing wet/dry vacuum cleaners and purchase a new cleaner that is specifically designed for mercury cleanup applications. It includes a HEPA filter with an activated carbon pre-filter. Respondent also stated that all significant leaks and spills not associated with maintenance or operator activities are recorded and addressed promptly. Housekeeping inspection forms were also attached as part of the response.

The Department was in receipt of another letter dated November 2, 2001, containing additional information in response to the multimedia inspection. Information was submitted regarding:

- Mercury housekeeping rounds for the weeks of Aug 6 and August 13.
- Mercury inventory figures for January, 2000 through August, 2001.
- Individual mercury cell on-line records for January, 2000 through August, 2001.

According to the response, corrective actions, including communications with the unit personnel, had been taken to immediately resolve this issue.

A file review conducted by the Department on or about November 21, 2002, disclosed the following effluent violations as reported to the Department by the Respondent on Discharge Monitoring Reports (DMRs) for the monitoring periods of August 2002 through November 2002:

Monitoring Period	Outfall	Parameter	Permit Limit	Sample Result
August 2002	101	TSS	1,431 lbs/day (avg)	1,824 lbs/day
			3,021 lbs/day (max)	15,970 lbs/day
September 2002	501	Hexachlorobenzene	0.00034 lbs/day (max)	0.00054 lbs/day
			0.006 µg/L (avg)	0.009 µg/L
			0.022 µg/L (max)	0.065 µg/L
October 2002	501	Hexachlorobenzene	0.00010 lbs/day (avg)	0.00013 lbs/day
			0.00034 lbs/day (max)	0.00127 lbs/day
			0.006 µg/L (avg)	0.017 µg/L
November 2002	201	Total Copper	49.3 lbs/day (max)	79.9 lbs/day
			501	Hexachlorobenzene
	0.00034 lbs/day (max)	0.00144 lbs/day		
	0.006 µg/L (avg)	0.007 µg/L		
0.022 µg/L (max)	0.080 µg/L			

The Department's findings are that each permit excursion is in violation of LPDES permit LA0000761 (Part I, Pages 5, 6, 7, 8, 9, and 10, Part II, Section C, 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.2355.A.

V.

In response to Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. MM-CN-02-0037, Respondent made a timely request for a hearing.

VI.

On or about August 25, 2003, a file review was performed of a summary of air regulatory deviations self-reported by the Respondent to determine the degree of compliance with the Act and the Air Quality Regulations. The Department's findings are that the following matters noted during the course of the file review are violations:

- A. The Respondent exceeded the NESHAP, 10 ppm, 3-hr rolling average standard for Vinyl Chloride on the following dates: May 13, 2003, May 14, 2001, February 20, 2001, July 1, 2001, August 23, 2001, and January 2, 2002. Each exceedance is a violation of 40 CFR 61.63(a) which language has been adopted as a Louisiana regulation in LAC 33:III.5116 and Sections 2057(A)(1) and 2057(A)(2) of the Act.
- B. The Respondent is required to maintain a maximum temperature of 63 degrees Fahrenheit at the blower. On June 30, 2001, August 30, 2001 and January 6, 2003, temperature exceedances occurred and the maximum temperature readings during these periods were 74 degrees, 69 degrees and 91 degrees, respectively. Each exceedance of temperature is a violation of 40 CFR 61.55(C)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5116 and Section 2057(A)(2) of the Act.
- C. The Respondent failed to include a description of the facts that explain any delay of repair in its 2001 and 2002 Leak Detection and Repair semi-annual monitoring reports. This is a violation of 40 CFR 63.182(D)(2)(xiii) which language been adopted as a Louisiana regulation in LAC 33:III.5122 and Section 2057(A)(2) of the Act.
- D. The Respondent installed a continuous O<sub>2</sub> monitor; however, alarms were not set as specified in the Specific Condition of the permit. The alarms were set at discrete points that were not always in the established range of

values associated with the stack testing. This is a violation of Specific Condition No. 5 of the Permit No. 2106-V0, LAC 33:501.C.4 and Section 2057(A)(2) of the Act.

- E. On or about September 14, 2002, the facility experienced a trip on the continuous O<sub>2</sub> monitor as a result of an upset on the No. 2 Gas turbine control system. The Respondent failed to continuously monitor O<sub>2</sub> in flue gas on EIQ No. 009B, C-2 Cogen Unit HRSG. This is a violation of Specific Condition No. 5 of the Permit No. 2106-V0, LAC 33:III.501.C.4 and Section 2057(A)(2) of the Act. On or about October 2, 2002, a release of approximately 24.92 lbs/hr of VOC (trichloroethylene) occurred which exceeded the permit limit. This is a violation of State Permit No. 2297, LAC 33:III.501.C.4 and Sections 2057(A)(1) and 2057(A)(2) of the Act.

#### VII.

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

#### VIII.

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 Sixty-Three Thousand Six Hundred And No/100 Dollars (\$63,600.00), of which \$1,235.07 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).

#### IX.

Respondent further agrees that the Department may consider the inspection report(s), the CONOPP's, 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.

X.

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.

XI.

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.

XII.

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

XIII.

Payment is to be made within thirty (30) days from notice in writing of the Secretary's signature, provided by certified mail. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and

Finance, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303.

XIV.

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

XV.

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.

WITNESSES:

Gary Woods  
(Signature)

Gary Woods  
(Printed or Typed)

Esther S. Liggio  
(Signature)

Esther S. Liggio  
(Printed or Typed)

PPG INDUSTRIES, INC.

BY: Jon Manns  
(Signature)

Jon Manns  
(Printed or Typed)

TITLE: Works Manager

THUS DONE AND SIGNED in duplicate original before me this 28th day of February, 2006, at Lake Charles, Louisiana.

Beth Lee Mueller  
BETH LEE MUELLER  
NOTARY PUBLIC (ID # 68629)

WITNESSES:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed or Typed)

STATE OF LOUISIANA  
Mike D. McDaniel, Ph.D., Secretary  
Department of Environmental Quality

BY: Harold Leggett  
Harold Leggett, Ph.D., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 31<sup>st</sup> day of May, 2006, at Baton Rouge, Louisiana.

Rebecca A. Burt  
NOTARY PUBLIC (ID # 27771)

Rebecca S. Beard  
(Printed or Typed)

Approved: Harold Leggett  
Harold Leggett, Assistant Secretary

3/16/06