

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

X-CHEM, INC.

AI # 10250

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

* Settlement Tracking No.
* SA-HE-10-0051
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* Enforcement Tracking No.
* HE-CN-09-0360
* HE-CN-09-0360A
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SETTLEMENT

The following Settlement is hereby agreed to between X-Chem, 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 that manufactures emulsion breakers, specialty surfactants, water clarifiers, flocculants, coagulants, defoamers, microbiocides, and paraffin inhibitors located in Harahan, Jefferson Parish, Louisiana (“the Facility”).

II

On September 11, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-09-0360, which was based upon the following findings of fact:

The Respondent owns and/or operates a facility located at 6141 River Road, Harahan, Jefferson Parish, Louisiana, known to the Department as X-Chem, Inc. – Blend Plant (the Site). The facility manufactures emulsion breakers, specialty surfactants, water clarifiers, flocculants, coagulants,

defoamers, microbiocides, and paraffin inhibitors. The facility notified the Department as a large quantity generator of hazardous waste (LQG) on or about April 22, 2005, and operates under the EPA identification number LAD058596354. The facility generates hazardous waste as a result of customer returns of off-spec products and onsite spill events.

On or about March 4, 2009, an inspection of the Site was conducted in order to assess compliance with the Hazardous Waste Regulations. The inspection and a subsequent file review conducted on July 30, 2009, revealed the following Hazardous Waste violations:

- A. The Respondent failed to determine whether solid wastes generated at the facility are hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent failed to perform waste determinations on solvent contaminated absorbent materials containing one (1) or more of the following solvents: xylene/ethyl benzene, solvent 150, isopropanol, & heavy aromatic naphtha. The solvent contaminated absorbent materials were generated as a result of the clean up on onsite solvent spills prior to disposal as solid waste.
- B. The Respondent failed to notify the Office of Environmental Services within seven (7) days of changes in the information submitted in its application for an EPA identification number, in violation of LAC 33:V.1105.B. Specifically, the Respondent failed to include the waste codes D004, D005, D007, D010, D026, and D035 on its HW-1 form. The waste codes were included on hazardous waste manifests reviewed during the inspection and on subsequent annual hazardous waste reports, yet are not included on the latest HW-1 form on file with the Department.
- C. The Respondent failed to develop and maintain a site specific contingency plan meeting the content requirements specified in LAC 33:V.1513.B, in violation of LAC 33:V.1109.E.1.e. Specifically, the Respondent failed to include arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services in its contingency plan. The Respondent addressed this violation on March 9, 2009, by revising its contingency plan to include the arrangements with local authorities.
- D. The Respondent failed to conduct training sessions at regular intervals for personnel in routine plant operation and informing and training the plant contingency team as specified in LAC 33:V.1515.A.4, in violation of LAC 33:V.1109.E.1.e. The Respondent addressed this violation on March 23, 2009, by providing the requisite contingency plan training to the plant contingency team as documented by records (i.e., agendas, the March 2009 revised contingency plan, and training sign-in sheets) provided to the Department on July 31, 2009.

On December 8, 2009, the Department issued to Respondent an Amended Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-09-0360A, amending the Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-09-0360 as follows:

The Department rescinded Finding of Fact Paragraph II.D of the Consolidated Compliance Order and Notice of Potential Penalty, Enforcement HE-CN-09-0360.

III

In response to Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-09-0360, 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 FOUR THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$4,800.00), of which One Thousand Six Hundred Twenty-Three and 77/100 Dollars (\$1,623.77) 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).

VI

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

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 Jefferson 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.

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.

X-CHEM, INC.

BY: Greg Schwartz
(Signature)

Greg Schwartz
(Print)

TITLE: President

THIS DONE AND SIGNED in duplicate original before me this 27th day of August, 20 10, at 10:25 AM Irving Tx.



Patti Jo Holt
NOTARY PUBLIC (ID #)
Patti Jo Holt
(Print)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch, Secretary

BY: Beau James Brock
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 23^d day of November, 20 10, at Baton Rouge, Louisiana.

Christopher A. Rataliff
NOTARY PUBLIC (ID # 10149)
Christopher A. Rataliff
(Print)

Approved: Paul D. Miller
Paul D. Miller, P.E., Assistant Secretary