STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No. SA-AE-25-0048**
ASSOCIATED WHOLESALE GROCERS, INC.	*	
AI # 171938	*	**Enforcement Tracking No. AE-CN-20-00657**
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Associated Wholesale Grocers, 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 regional distribution center located in Pearl River, St. Tammany Parish, Louisiana ("the Facility").

II

On April 17, 2024, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-20-00657 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice 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 TWENTY-SIX THOUSAND FOUR HUNDRED AND NO/100 DOLLARS ($26,400.00), of which Three Thousand Nine Hundred Thirty-Four and 08/100 Dollars ($3,934.08) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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 and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VIII

This Settlement Agreement 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 Agreement, the Department considered the factors for issuing civil penalties set forth in La. R.S. 30:2025(E) of the Act.

IX

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

X

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

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 Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment.

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 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondent by the Financial Services Division. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XII

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

XIII

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.

ASSOCIATED WHOLESALE GROCERS, INC.

BY: James C. Holland
(Signature)

James C. Holland
(Printed)

TITLE: Sr. Associate General Counsel
Exec. Dir, Compliance

THUS DONE AND SIGNED in duplicate original before me this 5 day of August, 20 25, at Kansas City, Kansas.

NOTARY PUBLIC (ID # 12149504)

STATE OF KANSAS NOTARY PUBLIC SAMANTHA WINKLER My Appointment Expires 6-23-28

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Courtney J. Burdette, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of October, 20 25, at Baton Rouge, Louisiana.

STATE OF LOUISIANA
OFFICIAL SEAL
DEIDRA JOHNSON
NOTARY ID # 51205
STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
My Commission is for Life

NOTARY PUBLIC (ID # 51205)

(stamped or printed)

Approved: _____
Jerrie "Jerry" Lang, Assistant Secretary

JEFF LANDRY
GOVERNOR

AURELIA S. GIACOMETTO
SECRETARY

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

APR 17 2024

EXHIBIT
tabbies
1

CERTIFIED MAIL (7021 0950 0001 9072 8676)
RETURN RECEIPT REQUESTED

ASSOCIATED WHOLESALE GROCERS, INC.
c/o CSC of St. Tammany Parish, Inc.
Agent for Service of Process
417 W. 21st Avenue
Covington, Louisiana 70433

RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-20-00657
AGENCY INTEREST NO. 171938

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **ASSOCIATED WHOLESALE GROCERS, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Alissa Cockerham at (225) 219-3785 or Alissa.cockerham@la.gov.

Sincerely,

Angela Marse
Administrator
Enforcement Division

AM/ARC/arc
Alt ID No. N/A
Attachment

c: Associated Wholesale Grocers, Inc.
c/o Perry Armstrong
63331 Old Military Road
Pearl River, Louisiana 70452

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
ASSOCIATED WHOLESALE GROCERS, INC.	*	**ENFORCEMENT TRACKING NO.**
ST. TAMMANY PARISH	*	
ALT ID NO. N/A	*	**AE-CN-20-00657**
	*	
	*	**AGENCY INTEREST NO.**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	**171938**
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ASSOCIATED WHOLESALE GROCERS, INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Associated Wholesale Grocers (the Facility), a regional distribution center, located at 63331 Old Military Road in Pearl River, St. Tammany Parish, Louisiana. The Respondent is registered in the Department's Chemical Accident Prevention Program (Program Level 3).

II.

On or about October 15-17, 2019, the Department performed an inspection of the Respondent's facility 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. The Respondent failed to ensure the frequency of inspections and tests of process equipment are consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience. Specifically, the following was documented during the Department's inspection: 1.) the only record of the annual compressor safety cutout testing was from June 2018 during the 5-year mechanical integrity audit, 2.) three (3) semi-annual ammonia sensor semiannual calibrations were skipped in June 2016, December 2017, and June 2018, 3.) the ammonia sensor semiannual reaction tests for a sensor in the machine room had not been conducted since September 10, 2015, 4.) monthly equipment visual inspections were missed in March 2019, July 2019, and August 2019, 5.) five (5) weekly equipment visual inspections were missed between September 2, 2019 and October 14, 2019, 6.) weekly inspections of safety shower and eyewash stations were not conducted in July 2019, and 7.) the ammonia handheld detector had not been conducted every six (6) months. The failure to ensure the frequency of inspections and tests of process equipment are consistent with applicable manufacturers' recommendations, good engineering practices, and prior operating experience is a violation of 40 CFR 68.73(d)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020 and May 19, 2020, the Respondent submitted a current annual compressor safety inspection and stated all sensors had been calibrated and/or bump tested as of December 11, 2019. In correspondence dated November 4, 2019, the Respondent provided documentation of the eyewash and safety shower inspections conducted on November 4, 2019. The correspondence dated May 1, 2020 further stated the Respondent had ordered new portable ammonia/oxygen detectors and were in the process of creating the inspection, testing, and maintenance (ITM) manual for this equipment.

B. The Respondent failed to promptly determine and document an appropriate response to each of the findings of the audit and document that deficiencies had been corrected. Specifically, several findings in the 2019 compliance audit were

repeat findings from the 2017 audit. The deficiencies noted in the 2017 audit findings had not been corrected. The failure to promptly determine and document an appropriate response to each audit finding and document that deficiencies had been corrected is a violation of 40 CFR 68.79(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020, the Respondent stated out of the 322 action items on the 2017 compliance audit, approximately 95% were completed and the facility was working to complete the remaining items by the end of June 2020.

C. The Respondent failed to include accurate block flow diagrams in the written process safety information. Specifically, block flow diagrams R1.4 and R1.5, dated May 1, 2013, were not updated for Management of Change (MOC) # 2015-004. The failure to include updated block diagrams in the written process safety information is a violation of 40 CFR 68.65(c)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent provided the updated block flow diagrams. The diagrams were updated on June 12, 2015, and June 17, 2015. The Respondent did not have the updated diagrams at the time of the inspection and had to obtain them from the contractor. This violation has been addressed.

D. The Respondent failed to certify annually that the operating procedures were current and accurate. Specifically, at the time of the Department's inspection, certifications from December 11, 2012 through November 7, 2017 were included in the facility's standard operating procedure binder. However, there were no annual certifications for 2018 and 2019. Each failure to certify annually that the operating procedures were current and accurate is a violation of 40 CFR 68.69(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 4, 2020, the Respondent provided documentation that the operating procedures were certified. This violation has been addressed.

E. The Respondent failed to provide initial training in the overview of the process and in operating procedures prior to being involved in operating a newly assigned process. Specifically, the Respondent was unable to provide documentation of initial training of an employee assigned to operate the ammonia refrigeration process. According to the facility's representative, an employee was assigned to operate the ammonia refrigeration process in approximately January 2015. The only documentation of operator training the facility could provide for the employee was training on operating procedures from September 24, 2018 through October 8, 2018. With a start date in January 2015, refresher training would have been due in 2018. The training documentation reviewed for 2018 appeared to be refresher training; although, it was noted in the facility's system as initial training. It was also noted in the facility's 2017 compliance audit that the Respondent could not determine if the initial training was provided. The failure to provide initial training in the overview of the process and operating procedures prior to being involved in operating a newly assigned process is a violation of 40 CFR 68.71(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent sent documentation confirming the initial training had been completed on October 19, 2019. This violation has been addressed.

F. The Respondent failed to consult with employees involved in operating the process on the frequency of refresher training. Specifically, the Respondent could not provide documentation on consultation with employees involved in operating the process regarding the frequency of refresher training. At the time of the Department's inspection, a facility representative stated the facility has monthly PSM/RMP Program meetings in which the facility manager goes over each element of the RMP program as a group with employees from operations, maintenance, and supervisors. Facility representatives were asked by the Department's inspector if one (1) employee was ever consulted on the frequency of his operator training during the PSM/RMP program meetings and the

representatives answered "no." The failure to consult with employees involved in operation of the process on the frequency of refresher training is a violation of 40 CFR 68.71(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent stated that employees had recently been consulted on the frequency of training during a process safety meeting and sent documentation of the consultation. Documentation dated May 1, 2020 indicated employees are required to write a response regarding the frequency of training sufficiency on the On the Job Training Form. This violation has been addressed.

G. The Respondent failed to provide training to each employee involved in maintaining the on-going integrity of process equipment. Specifically, at the time of the Department's inspection on or about October 15-17, 2019, the Respondent did not provide training on maintenance of ammonia refrigeration equipment for an employee. The failure to provide training to each employee involved in maintaining the on-going integrity of process equipment is a violation of 40 CFR 68.73(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent stated two (2) employees were trained on the oil draining procedure on October 31, 2019, but did not pass evaluation at that time. In subsequent correspondence dated May 1, 2020, the Respondent stated one (1) employee passed the evaluation on November 9, 2019, and the other employee passed the evaluation on Decenber 18, 2019. Ammonia sensor calibration and oxygen sensor calibration procedures were contained within the new emergency shutdown systems procedure, and employees were trained on that procedure in November 2019. This violation has been addressed.

H. The Respondent failed to ensure the consistent documentation of each inspection and ensure tests included the serial number or unique identifier of the equipment on which the inspection or test was performed. Specifically, the records for the monthly ammonia sensor function testing did not contain unique identifiers for

the thirty-one (31) different ammonia sensors nor the results of the function tests. The sensor function tests had been marked as completed as a whole. The failure to ensure tests included the serial number or unique identifier of the equipment on which the test was performed is a violation of 40 CFR 68.73(d)(4), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent included the revised calibration log with the newly assigned unique identifiers for each ammonia sensor. This violation has been addressed.

I. The Respondent failed to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use or in a safe and timely manner when necessary means were taken to assure safe operation. Specifically, the Respondent failed to correct the deficiencies noted in the five (5) year mechanical integrity inspection completed in June 2018. At the time of the Department's inspection, none of the deficiencies were documented as corrected. The failure to correct deficiencies in equipment that were outside acceptable limits defined by the process safety information before further use is a violation of 40 CFR 68.73(e), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020, the Respondent provided documentation that all forty-two (42) deficiencies from the audit have since been corrected. This violation has been addressed.

J. The Respondent failed to implement written procedures to manage changes to process chemicals, technology, equipment, and procedures, and changes to stationary sources that affect a covered process. Specifically, the Respondent failed to perform a MOC for the re-orientation of the heat exchanger piping and for the installation of a manual ventilation switch. These changes would have resulted in a change in process safety information. The failure to implement written procedures to manage changes to the process is a violation of 40 CFR 68.75(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the

Department's inspector dated November 8, 2019, the Respondent submitted the appropriate MOC for the aforementioned project. This violation has been addressed.

K. The Respondent failed to update process safety information due to a change. Specifically, block flow diagrams R1.4 and R1.5 were not updated to reflect the changes to process equipment affected by MOC No. 2015-004. The failure to update process safety information due to a change is a violation of 40 CFR 68.75(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, updated block flow diagrams were submitted. The diagrams had been updated on June 12, 2015 and June 17, 2015. The Respondent did not have these updated diagrams at the time of inspection and had to get them from the contractor. This violation has been addressed.

L. The Respondent failed to train employees involved in operating a process prior to implementing a change in the process. Specifically, training was not given to the employees affected by the changes from MOC No. 2015-004, which was an addition to the facility in 2015 that added process related equipment and increased the amount of anhydrous ammonia used in the process. The failure to train employees involved in operating a process prior to implementing a change in the process is a violation of 40 CFR 68.77(b)(4), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 19, 2020, the Respondent stated that training for MOC No. 2015-004 could not be found. This violation has been addressed.

M. The Respondent failed to implement written procedures to certify the 2017 compliance audit. Specifically, the 2017 compliance audit was not signed or dated to certify that the stationary source was evaluated for compliance with the provisions of the prevention program. The failure to certify the compliance audit is a violation of 40 CFR 68.79(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In

correspondence to the Department's inspector dated November 8, 2019, the Respondent submitted a signed and dated Audit Certification Form for the 2017 compliance audit. This violation has been addressed.

N. The Respondent failed to inform the contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and the process. Specifically, contract employees from Gulf South Electric & Solar, LLC had not received training on the known hazards for anhydrous ammonia before being allowed to work on site. These employees worked in the electrical room, which is next door to the engine room where the ammonia refrigeration equipment is housed. The failure to inform the contract owner or operator of the known potential fire, explosion, or toxic release hazards related to the contractor's work and process is a violation of 40 CR 68.87(b)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020, the Respondent stated that proper training for Gulf South Electrical employees had been completed on October 31, 2019. This violation has been addressed.

O. The Respondent failed to explain to the contract owner or operator the applicable provisions of the emergency response program. Specifically, contract employees for Gulf South Electric & Solar, LLC had not received training on the facility's Emergency Response Plan before being allowed to work on site. The failure to explain to the contract owner or operator the applicable provisions of the emergency response program is a violation of 40 CFR 68.87(b)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020, the Respondent stated that proper training for Gulf South Electrical employees had been completed on October 31, 2019. This violation has been addressed.

P. The Respondent failed to periodically evaluate that each contract employee is trained in the work practices to safely perform his/her job. Specifically, the facility uses a CQ 3 – Contractor Evaluation Form to evaluate the contract

worker's performance and compliance with the facility's safe work policies. There were no CQ 3 forms completed for Gulf South Electric & Solar, LLC. Gulf South Electric & Solar, LLC was never evaluated while working at the facility. The failure to periodically evaluate that each contract employee is trained in the work practices to safely perform his/her job is a violation of 40 CFR 68.75(b)(5), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated May 1, 2020, the Respondent stated that refresher training of responsible personnel on the policy for properly informing, training, and evaluating contractors was completed on November 8, 2019. This violation has been addressed.

Q. The Respondent failed to develop and implement an emergency response program for the purpose of protecting public health and the environment. Specifically, at the time of the Department's inspection, two (2) of the four (4) emergency responders had facial hair, which would prevent these employees from being able to don a respirator and respond to an ammonia release. The failure to develop and implement an emergency response program for the purpose of protecting public health and the environment is a violation of 40 CFR 68.95(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent stated the facility purchased powered air purifying respirators (PAPR), which could be used by bearded employees. According to the Respondent's correspondence, the PAPRs were issued to each emergency responder and the facility has trained them on proper usage as of November 8, 2019. This violation has been addressed.

R. The Respondent failed to include documentation of proper first-aid and emergency medical treatment necessary to treat accidental human exposures in the emergency response plan. Specifically, at the time of the Department's inspection, the facility's existing emergency response plan (ERP) did not include documentation of proper first-aid and emergency medical treatment to treat

accidental human exposures to ammonia. The failure to include documentation of proper first-aid and emergency medical treatment necessary to treat accident human exposures in the emergency response plan is a violation of 40 CFR 68.95(a)(1)(ii), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent included the updated emergency response plan which contained first aid treatment, a list of trained personnel in CPR and first-aid, and the first-aid equipment inventory. This violation has been addressed.

S. The Respondent failed to include procedures and measures for emergency response after an accidental release of a regulated substance in the Emergency Response Plan (ERP). Specifically, at the time of the Department's inspection, the facility's ERP did not specify that emergency response should only be defensive in nature, nor did it include the maximum ammonia concentration that emergency responders could be exposed to during emergency response activities to ensure their safety. The failure to include procedures and measures for emergency response after an accidental release of a regulated substance in the emergency response plan is a violation of 40 CFR 68.95(a)(1)(iii), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent included an updated ERP, which clarifies that responders will only respond defensively, and gives the appropriate personal protective gear necessary to respond given the various ranges of ammonia concentrations. This violation has been addressed.

T. The Respondent failed to develop and implement procedures for the inspection, testing, and maintenance of emergency response equipment. Specifically, at the time of the Department's inspection, ERP section 7.1 – Emergency Response Equipment and Training only contained information regarding self-contained breathing apparatuses and level A suits. Neither of these types of personal protective equipment were kept on-site or available to emergency responders. The ERP did not cover the air purifying respirators, handheld ammonia

detectors, or the fixed ammonia detectors, which were available on-site and to be used during an emergency response. The failure to develop and implement procedures for the inspection, testing, and maintenance of emergency response is equipment is a violation of 40 CFR 68.95(a)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence to the Department's inspector dated November 8, 2019, the Respondent included a monthly inspection checklist for the emergency response equipment including air monitoring equipment, powered air purifying respirators, portable lighting and radios, plans, maps, and first aid equipment. This violation has been addressed.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation that the ammonia handheld detectors have been calibrated every six (6) months, and facility personnel have continued to review, update and implement their ITM program on the ammonia refrigeration system in accordance with 40 CFR 68.73(d)(3) as referenced in Findings of Fact Paragraph A.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation to confirm all action items from the 2017 and 2019 compliance audits have been completed as referenced in Findings of Fact Paragraph B.

IV.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order

Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Alissa Cockerham
Re: Enforcement Tracking No. AE-CN-20-00657
Agency Interest No. 171938

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. AE-CN-20-00657
Agency Interest No. 171938

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right

to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than thirty-two thousand five hundred dollars ($32,500) for each day of violation for the violation(s) described herein may be assessed. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars ($50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Alissa Cockerham at (225) 219-3785 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached **"CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE"** form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.

Baton Rouge, Louisiana, this 17th day of April, 2024.

Jerry Lang
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Alissa Cockerham

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION — CONSOLIDATED COMPLIANCE ORDER &
POST OFFICE BOX 4312 — NOTICE OF POTENTIAL PENALTY
BATON ROUGE, LOUISIANA 70821-4312 — REQUEST TO CLOSE

Enforcement Tracking No.	AE-CN-20-00657	Contact Name	Alissa Cockerham
Agency Interest (AI) No.	171938	Contact Phone No.	(225) 219-3785
Alternate ID No.	N/A		
Respondent:	Associated Wholesale Grocers, Inc.	Facility Name:	Associated Wholesale Grocers, Inc.
	c/o CSC of St. Tammany Parish, Inc.	Physical Location:	63331 Old Military Road
	Agent for Service of Process		
	417 W. 21st Avenue	City, State, Zip:	Pearl River, LA 70452
	Covington, LA 70433	Parish:	St. Tammany

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs II and III of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER *(OPTIONAL)*

(check the applicable option)

____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.
____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00657), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00657), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay $_____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion. • Monetary component = $_____ • Beneficial Environmental Project (BEP)component (optional)= $_____ • *DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.*
	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-20-00657) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title

Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Alissa Cockerham

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:I.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

	NATURE AND GRAVITY OF THE VIOLATION		
	MAJOR	MODERATE	MINOR
MAJOR	$32,500 to $20,000	$20,000 to $15,000	$15,000 to $11,000
MODERATE	$11,000 to $8,000	$8,000 to $5,000	$5,000 to $3,000
MINOR	$3,000 to $1,500	$1,500 to $500	$500 to $100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred .

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.

Given the previous information, the following formula is used to obtain a penalty amount.

Penalty Event Total = Penalty Event Minimum + (Adjustment Percentage x [Penalty Event Maximum - Penalty Event Minimum])

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.
Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in EDMS using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements	Enforcement Division's website specific examples can be provided upon request
Penalty Determination Method	LAC 33:I Chapter 7
Beneficial Environmental Projects	LAC 33:I Chapter 25 FAQs
Judicial Interest	provided by the Louisiana State Bar Association