

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NUTRITION & BIOSCIENCES USA 1, LLC

AI # 216362

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

* **Settlement Tracking No.**
* **SA-AE-25-0070**
*
* **Enforcement Tracking No.**
* **AE-PP-22-00082**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Nutrition & Biosciences USA 1, LLC (“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 limited liability company that owns and/or operates a facility that manufactures water-soluble methylcellulose and hydroxypropyl methylcellulose polymers for use as pharmaceutical excipients located in Plaquemine, Iberville Parish, Louisiana (“the Facility”).

II

On July 6, 2023, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-22-00082 (Exhibit 1).

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 EIGHT THOUSAND AND NO/100 DOLLARS (\$8,000.00), of which One Thousand One Hundred Fifty-Nine and 26/100 Dollars (\$1,159.26) 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).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the 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.

VI

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.

VII

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.

VIII

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.

IX

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

X

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 Accounts Receivable, 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.

XI

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

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.

**NUTRITION & BIOSCIENCES USA 1,
LLC**

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**
Courtney J. Burdette, Secretary

BY: _____
Jerrie "Jerry" Lang, 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: 

Jerrie "Jerry" Lang, Assistant Secretary

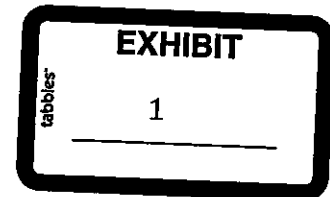
JOHN BEL EDWARDS
GOVERNOR



ROGER W. GINGLES
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JUL 06 2023



CERTIFIED MAIL (7021 1970 0000 3974 0310)
RETURN RECEIPT REQUESTED

NUTRITION & BIOSCIENCES USA 1, LLC

c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-22-00082
AGENCY INTEREST NO. 216362

Dear Sir/Madam:

On or about March 24, 2021, and July 5, 2023, an inspection and a subsequent file review of **PLAQUEMINE METHOCEL**, a facility that manufactures water-soluble methylcellulose and hydroxypropyl methylcellulose polymers for use as pharmaceutical excipients, owned and/or operated by **NUTRITION & BIOSCIENCES USA 1, LLC (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 21255 Louisiana Highway 1 Block 45 in Plaquemine, Iberville Parish, Louisiana.

On or about September 1, 2017, the Louisiana Department of Environmental Quality (the Department) issued Title V Air Permit No. 2227-V9, to The Dow Chemical Company, which expired September 27, 2021. On or about April 1, 2019, DDP Specialty Electronic Materials US, Inc. became the owner/operator of the facility. The Department transferred Title V Air Permit No. 2227-V9 from The Dow Chemical Company (Agency Interest No. 1409) to DDP Specialty Electronic Materials US, Inc., effective April 1, 2019. On or about November 24, 2020, DDP Specialty Electronic Materials US, Inc. converted and changed its name to DDP Specialty Electronic Materials US, LLC. On or about November 1, 2020, the Respondent became the owner/operator of the facility. The Department transferred Title V Air Permit No. 2227-V9 from DDP Specialty Electronic Materials US, Inc. to the Respondent, effective November 1, 2020. The Respondent submitted a Title V Air Permit Application on March 12, 2021, and the Department issued Title V Air Permit No. 1280-00290-V0 on April 29, 2022, which expires April 29, 2027.

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While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

In the 2021 Title V First Semiannual Monitoring Report, submitted October 30, 2021, and electronic correspondence dated April 7, 2023, the Respondent reported the following failures to inspect filter elements/bags/parts every six (6) months and whenever visual checks indicate maintenance may be necessary:

	EQT ID	Description	2020 FIRST HALF 2020 INSPECTION(S)		2021 FIRST HALF 2021 INSPECTION(S)	
			INSPECTION DATE	INSPECTION DATE	FIRST HALF 2021 INSPECTION DATE	SECOND HALF 2021 INSPECTION DATE
1.	EQT 0070	7N (B-203) Blower Exhaust	5/3/2020	-	4/20/2021	9/27/2021
2.	EQT 0071	7O (B-205) Blower Exhaust	5/3/2020	-	4/20/2021	11/2/2021*
3.	EQT 0076	8N (B-20) Blower Exhaust	5/14/2020	-	4/27/2021	12/3/2021*
4.	EQT 0079	B8 (BDC-30A) Blower Exhaust	5/2/2020	-	-	12/22/2021
5.	EQT 0080	B9 (BDC-30B) Blower Exhaust	5/2/2020	-	-	12/22/2021
6.	EQT 0095	Blower Exhaust)CC (BDC-60)	5/29/2020	-	-	12/14/2021
7.	EQT 0114	DB (BDC-80) Untreated packaging dust collection	5/29/2020	-	6/10/2021	10/5/2021
8.	EQT 0101	DZ (1-B9) Blower Exhaust	5/3/2020	-	4/13/2021	12/14/2021*
9.	EQT 0104	V6 (B-200 Blower Exhaust)	5/29/2020	-	-	12/7/2021
10.	EQT 0098	DC (DC-40A) Consolidated Blower Exhaust	5/19/2020	-	-	9/16/2021
11.	EQT 0098	DC (DC-40B) Consolidated Blower Exhaust	5/3/2020	-	-	12/5/2021
12.	EQT 0098	DC (DC-45) Consolidated Blower - Exhaust	5/26/2020	-	-	11/9/2021

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	EQUIPMENT ID	EQUIPMENT DESCRIPTION	LAST INSPECTION DATE	INSPECTION STATUS	NEXT INSPECTION DATE	FILTER/BAG HOUSE (S)
						SECOND HALF 2021 INSPECTION DATE
13.	EQT 0098	DC (DC-100) Consolidated Blower Exhaust	5/2/2020	-	3/27/2021	9/25/2021
14.	EQT 0098	DC (DC-102) Consolidated Blower Exhaust	5/30/2020	-	-	9/25/2021
15.	EQT 0092	DC (DC-232/233) B-232 Exhaust	5/26/2020	-	-	9/27/2021
16.	EQT 0091	DC (B-1451) Exhaust	5/26/2020	-	1/26/2021	10/29/2021*
17.	EQT 0121	Z8 (BDC-5A/B) Blower Exhaust	5/26/2020	-	-	12/5/2021
18.	EQT 1331	Z9 (BDC-1B) Blower Exhaust	5/2/2020	-	-	12/14/2021
19.	N/A	DC-8141	5/29/2020	-	-	12/17/2021
20.	N/A	DC-8361	5/29/2020	-	6/17/2021	12/17/2021
21.	N/A	DC-8321	5/30/2020	-	2/10/2021	12/1/2021*
22.	N/A	DC-20 D	5/20/2020	-	-	12/14/2021

- Indicates inspection did not occur

* 6-month inspection conducted late

Each failure to inspect and/or timely inspect filter elements/bags/parts every six months and whenever visual checks indicate maintenance may be necessary is a violation of Specific Requirement 2 of Title V Air Permit No. 2227-V9, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated April 7, 2023, the Respondent's representative provided the facility's in-house semi-annual inspection logs, which state that the cellulose dust filter/bag house semi-annual inspections must be done in the months of May and November to meet the Air Permit Requirements. In the April 7, 2023 correspondence, the Respondent's representative stated that although inspections were scheduled for November 2020, the Respondent could not identify documentation that the inspections were conducted. Additionally, the Respondent's representative stated the Respondent could not confirm that inspections occurred after inspections that were documented on the inspection form for May 2021.

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.

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Prior to the issuance of any additional appropriate enforcement action, 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 Courtney Tolbert at 225-219-3347 or Courtney.Tolbert@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

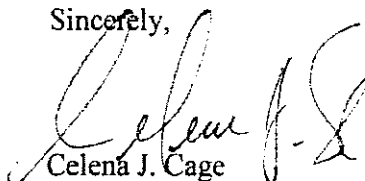
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations 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 this 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.

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

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. 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.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Celena J. Cage

Assistant Secretary

Office of Environmental Compliance

CJC/CJT/cjt
Alt ID No. 1280-00290

Nutrition & Biosciences USA 1, LLC

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c: Nutrition & Biosciences USA 1, LLC
c/o Beau Braswell
21255 Louisiana Highway 1
Plaquemine, LA 70764

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	AE-PP-22-00082	Contact Name	Courtney Tolbert
Agency Interest (AI) No.	216362	Contact Phone No.	225-219-3347
Alternate ID No.	1280-00290		
Respondent:	Nutrition & Biosciences USA 1, LLC	Facility Name:	Plaquemine Methocel
	c/o C T Corporation System	Physical Location:	21255 Louisiana Highway 1
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Plaquemine, LA 70764
	Baton Rouge, LA 70816	Parish:	Iberville Parish

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 33:1.Subpart1.Chapter7.
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-22-00082), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
_____	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY (AE-PP-22-00082).
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-22-00082), 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. <ul style="list-style-type: none"> • 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 NOTICE OF POTENTIAL PENALTY (AE-PP-22-00082) 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: Courtney Tolbert

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 33:1.705 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
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	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.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

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 <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:1 Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:1 Chapter 25</u>
	<u>FAQs</u>
Judicial Interest	<u>provided by the Louisiana State Bar Association</u>

