

**Executive Summary – Enforcement Matter – Case No. 63501**  
**DSM Nutritional Products, LLC**  
**RN101190221**  
**Docket No. 2023-0102-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

DSM Nutritional Products, 1000 County Road 227, Freeport, Brazoria County

**Type of Operation:**

Medicinal chemicals and botanical products manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** April 5, 2024

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$12,000

**Amount Deferred for Expedited Settlement:** \$2,400

**Total Paid to General Revenue:** \$9,600

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Compliance History Classifications:**

Person/CN - High

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** January 2021

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** April 15, 2021 through April 30, 2021

**Date(s) of NOE(s):** July 8, 2021

**Executive Summary – Enforcement Matter – Case No. 63501  
DSM Nutritional Products, LLC  
RN101190221  
Docket No. 2023-0102-AIR-E**

***Violation Information***

Failed to prevent unauthorized emissions. Specifically, the Respondent released 993.54 pounds of ammonia as fugitive emissions, during an emissions event (Incident No. 353527) that began on March 31, 2021 and lasted 72 hours [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 19797, Special Conditions No. 1, Federal Operating Permit No. O3943, General Terms and Conditions and Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By December 13, 2022, the Respondent repaired or replaced the check valves upstream of XV.C2105.02 and PCV.C2105.01; repaired or replaced H.2109.30, PCV.C2105.01, and XV.C2105.02; properly installed the bull plug located on the Nitrogen Supply Line with teflon tape and tool tight; implemented an interlock to close XV.C2105.01 when the C-2105 pressure approaches 1.5 bar; updated the work processes to include regular open-ended line inspections; verified that the design of XV.C2105.02 was adequate for ammonia service; implemented an Etinol and Vinylol Unit Startup Checklist to be used in conjunction with the Plant's existing Startup Procedure; updated the Production Walkthrough Procedure to require weekly checks performed by the Operations personnel to inspect for open ended lines and reinstall caps/plugs as necessary; updated the Lockout, Tag Out, and Try Out Procedure to instruct responsible personnel to confirm that all plugs and caps are reinstalled; and implemented preventive maintenance on the C-2105 Nitrogen Supply System in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 353527.

**Technical Requirements:**

N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**Respondent:** Amy McCutcheon, Site Manager, DSM Nutritional Products, LLC, 1000 County Road 227A, Freeport, Texas 77541-3027

Trevor Richardson, Senior Production Manager, DSM Nutritional Products, LLC, 1000 County Road 227A, Freeport, Texas 77541-3027

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	12-Jul-2021	<b>Screening</b>	14-Jul-2021	<b>EPA Due</b>	
	<b>PCW</b>	22-Jan-2024				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	DSM Nutritional Products, LLC				
<b>Reg. Ent. Ref. No.</b>	RN101190221				
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	63501	<b>No. of Violations</b>	1
<b>Docket No.</b>	2023-0102-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Danielle Porras
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$12,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	6.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$750
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<b>Notes</b>	Enhancement for one NOV with dissimilar violations and one order containing a denial of liability. Reduction for two notices of intent to conduct an audit, two disclosures of violations, and High Performer classification.
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<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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<b>Notes</b>	The Respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$1,250
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$4,329	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$50,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$12,000
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

<b>Notes</b>	
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<b>Final Penalty Amount</b>	\$12,000
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$12,000
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$2,400
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Reduces the Final Assessed Penalty by the indicated percentage.

<b>Notes</b>	Deferral offered for expedited settlement.
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<b>PAYABLE PENALTY</b>	\$9,600
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Screening Date 14-Jul-2021

Docket No. 2023-0102-AIR-E

PCW

Respondent DSM Nutritional Products, LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 63501

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101190221

Media Air

Enf. Coordinator Danielle Porras

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	2	-4%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 16%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

#### >> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with dissimilar violations and one order containing a denial of liability. Reduction for two notices of intent to conduct an audit, two disclosures of violations, and High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 6%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 6%

**Screening Date** 14-Jul-2021 **Docket No.** 2023-0102-AIR-E **PCW**  
**Respondent** DSM Nutritional Products, LLC *Policy Revision 5 (January 28, 2021)*  
**Case ID No.** 63501 *PCW Revision February 11, 2021*  
**Reg. Ent. Reference No.** RN101190221  
**Media** Air  
**Enf. Coordinator** Danielle Porras

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 19797, Special Conditions No. 1, Federal Operating Permit No. O3943, General Terms and Conditions and Special Terms and Conditions No. 11, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions. Specifically, the Respondent released 993.54 pounds of ammonia as fugitive emissions, during an emissions event (Incident No. 353527) that began on March 31, 2021 and lasted 72 hours.

**Base Penalty**

**>> Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

**Matrix Notes** Human health or the environment has been exposed to significant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events   Number of violation days

daily	<input type="text"/>
weekly	<input checked="" type="text" value="x"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	<input type="text"/>	<input type="text"/>

**Notes** The Respondent completed the corrective measures by December 13, 2022, after the Notice of Enforcement dated July 8, 2021.

**Violation Subtotal**

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$4,329"/>	Violation Final Penalty Total <input type="text" value="\$12,000"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$12,000"/>	

# Economic Benefit Worksheet

**Respondent** DSM Nutritional Products, LLC  
**Case ID No.** 63501  
**Reg. Ent. Reference No.** RN101190221  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50,000	21-Mar-2021	13-Dec-2022	1.73	\$4,329	n/a	\$4,329

#### Notes for DELAYED costs

Estimated cost to repair or replace the check valves upstream of XV.C2105.02 and PCV.C2105.01; repair or replace H.2109.30, PCV.C2105.01, and XV.C2105.02; properly install the bull plug located on the Nitrogen Supply Line with teflon tape and tool tight; implement an interlock to close XV.C2105.01 when the C-2105 pressure approaches 1.5 bar; update the work processes to include regular open-ended line inspections; verify that the design of XV.C2105.02 was adequate for ammonia service; implement an Etinol and Vinylol Unit Startup Checklist to be used in conjunction with the Plant's existing Startup Procedure; update the Production Walkthrough Procedure to require weekly checks performed by the Operations personnel to inspect for open ended lines and reinstall caps/plugs as necessary; update the Lockout, Tag Out, and Try Out Procedure to instruct responsible personnel to confirm that all plugs and caps are reinstalled; and implement preventive maintenance on the C-2105 Nitrogen Supply System in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 353527. The Date Required is the date the emissions event began and the Final Date is the date of compliance.

### Avoided Costs

#### ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

#### Notes for AVOIDED costs

Approx. Cost of Compliance \$50,000

**TOTAL** \$4,329

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# Compliance History Report

Compliance History Report for CN602496499, RN101190221, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

**Customer, Respondent, or Owner/Operator:** CN602496499, DSM Nutritional Products, LLC      **Classification:** HIGH      **Rating:** 0.00

**Regulated Entity:** RN101190221, DSM NUTRITIONAL PRODUCTS      **Classification:** HIGH      **Rating:** 0.00

**Complexity Points:** 17      **Repeat Violator:** NO

**CH Group:** 05 - Chemical Manufacturing

**Location:** 1000 County Road 227, Freeport, Brazoria County, Texas

**TCEQ Region:** REGION 12 - HOUSTON

## ID Number(s):

**AIR OPERATING PERMITS PERMIT 3943**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0200355**

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER BL0033H**

**AIR NEW SOURCE PERMITS REGISTRATION 10803**

**AIR NEW SOURCE PERMITS PERMIT 19797**

**AIR NEW SOURCE PERMITS REGISTRATION 73843**

**AIR NEW SOURCE PERMITS REGISTRATION 86761**

**AIR NEW SOURCE PERMITS REGISTRATION 162464**

**AIR NEW SOURCE PERMITS AFS NUM 4803900038**

**STORMWATER PERMIT TXR05BR55**

**WASTEWATER PERMIT WQ0002216000**

**WASTEWATER EPA ID TX0064912**

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER BL0033H**

**POLLUTION PREVENTION PLANNING ID NUMBER P01611**

**INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD083558486**

**INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 32324**

**Compliance History Period:** September 01, 2018 to August 31, 2023      **Rating Year:** 2023      **Rating Date:** 09/01/2023

**Date Compliance History Report Prepared:** January 22, 2024

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 22, 2019 to January 22, 2024

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Danielle Porras

**Phone:** (512) 239-2923

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period?      YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period?      NO

## Components (Multimedia) for the Site Are Listed in Sections A - J

### A. Final Orders, court judgments, and consent decrees:

1      Effective Date: 06/07/2022      ADMINORDER 2021-0823-AIR-E      (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Special Condition 1 PERMIT

Special Term and Condition 11 OP

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 329 pounds of ammonia as fugitive emissions, during an emissions event (Incident No. 310007) that occurred on June 2, 2019 and lasted one hour. The emissions event occurred when all of the fasteners between the diverter valve and tank nozzle were loose and when the diverter valve support was not installed under the valve, resulting in the release to the atmosphere.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	February 20, 2019	(1562066)
Item 2	March 21, 2019	(1562067)
Item 3	April 29, 2019	(1572609)
Item 4	May 20, 2019	(1584829)
Item 5	June 20, 2019	(1584830)
Item 6	August 19, 2019	(1600280)
Item 7	September 19, 2019	(1607173)
Item 8	November 20, 2019	(1619836)
Item 9	December 17, 2019	(1627197)
Item 10	January 20, 2020	(1634833)
Item 11	February 19, 2020	(1641448)
Item 12	April 13, 2020	(1654309)
Item 13	May 19, 2020	(1660874)
Item 14	June 18, 2020	(1667407)
Item 15	July 14, 2020	(1674356)
Item 16	August 14, 2020	(1681131)
Item 17	September 09, 2020	(1687700)
Item 18	September 23, 2020	(1727864)
Item 19	October 12, 2020	(1694046)
Item 20	November 16, 2020	(1714795)
Item 21	December 30, 2020	(1714796)
Item 22	February 22, 2021	(1727863)
Item 23	May 14, 2021	(1741225)
Item 24	June 07, 2021	(1741226)
Item 25	August 28, 2021	(1767135)
Item 26	September 16, 2021	(1767136)
Item 27	October 18, 2021	(1777608)
Item 28	November 12, 2021	(1784407)
Item 29	December 19, 2021	(1791437)
Item 30	January 21, 2022	(1799219)
Item 31	February 14, 2022	(1807097)
Item 32	March 22, 2022	(1814161)
Item 33	April 05, 2022	(1794233)
Item 34	April 28, 2022	(1820735)
Item 35	May 27, 2022	(1829569)
Item 36	June 20, 2022	(1835864)
Item 37	August 16, 2022	(1849235)
Item 38	September 19, 2022	(1856995)
Item 39	October 24, 2022	(1863353)
Item 40	November 18, 2022	(1870266)
Item 41	December 19, 2022	(1876113)
Item 42	January 18, 2023	(1882934)
Item 43	February 20, 2023	(1890745)
Item 44	February 21, 2023	(1867991)
Item 45	March 22, 2023	(1899312)
Item 46	April 26, 2023	(1906117)
Item 47	May 26, 2023	(1913272)
Item 48	July 24, 2023	(1926848)
Item 49	August 17, 2023	(1933805)
Item 50	September 20, 2023	(1939949)
Item 51	October 20, 2023	(1946791)
Item 52	October 31, 2023	(1932505)
Item 53	November 20, 2023	(1952479)



## E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 05/31/2023 (1919881)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

## F. Environmental audits:

Notice of Intent Date: 07/29/2019 (1590530)

Disclosure Date: 12/12/2019

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 113, SubChapter C 113.100  
30 TAC Chapter 113, SubChapter C 113.1495  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(ii)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT VVVVVV 63.11501(a)

Rqmt Prov: PERMIT SC 5.A.  
OP ST&C No. 11

Description: Failure to maintain 300 British thermal units per standard cubic foot at the Main Flare when a flowmeter malfunctioned.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 113, SubChapter C 113.1495  
30 TAC Chapter 116, SubChapter B 116.115(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT VVVVVV 63.11501(c)(2)(ii)

Rqmt Prov: PERMIT SC 5.B.  
OP ST&C 11

Description: Failure to maintain records of hourly flare pilot monitoring.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 7  
OP ST&C 11

Description: Failure to demonstrate that less than 100 parts per million by volume of methylene chloride is released back to the Main Flare EPN A.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 113, SubChapter C 113.1495  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT VVVVVV 63.11496(d)(2)

Description: Failure to demonstrate that the mass flow rate of Cl to the Main Flare from the BC unit is less than 0.45 kg/hr.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 8  
OP ST&C 11

Description: Failure to ensure that weekly samples are taken from the stream between the first and second canisters in the activated CAS for the MeCl<sub>2</sub> tank.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 8  
OP ST&C 11

Description: Failure to maintain records to demonstrate that samples are taken during every MeCl<sub>2</sub> tank filling event.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 8  
OP ST&C 11

Description: Failure to maintain records to demonstrate that the new weight increase of the carbon canisters in the

activated CAS for the MeCl2 tank is recorded when break through is detected.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 8

OP ST&C 11

Description: Failure to maintain records of monitoring for break through on the activated CASE for the MeCl2 tank to indicate that carbon was promptly replace when break through occurred.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 11.D

OP ST&C 11

Description: Failure to maintain records of the rolling 12-month throughput of each tank.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 13.A and 13.B

OP ST&C 11

Description: Failure to ensure that the MLSS concentration in the aeration basin is not less than the minimum required concentration in September 2019, November 2019 and December 2019 for T-8002 and in December 2019 for T-8005.

Viol. Minor

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 14

OP ST&C 11

Description: Failure to maintain records of the twice per week MLS concentration in aeration basins T-8002 and T-8005 in May 2019 and July 2019.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 15

OP ST&C 11

Description: Failure to comply with the short-term and annual emissions rates for MeCl2 for the WWTP.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 16.D.

OP ST&Cs 11

Description: Failure to ensure that the plant's guidelines for changes to piping includes language to limit the installation of difficult to monitor components.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 16.E.

OP ST&C 11

Description: Failure to ensure that open ended valves or lines are equipped with a cap, blind flange, plug, or second valve to seal the line.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT VVVVVV 63.11495(a)(5)

Rqmt Prov: PERMIT SC 16.H and 16.J

OP ST&C 11

Description: Failure to ensure that leaking valves or connectors are logged if immediately repaired during the LDAR inspection.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT SC 19

OP ST&C 11

Description: Failure to maintain records to demonstrate that AVO check for ammonia leaks in the process area -48 compressor area and -12 compressor area are conducted once per day.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 106, SubChapter A 106.4(c)

30 TAC Chapter 116, SubChapter B 116.110  
30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PERMIT SC 20  
OP ST&C 11

Description: Failure to maintain records of inherently low emitting MSS activities for annual revalidation.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PERMIT SC 21  
OP ST&C 11

Description: Failure to maintain records of MSS procedures to verify that the requirements for vessel degassing and cleaning to the Main Flare are followed.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PERMIT SC 22  
OP ST&C 11

Description: Failure to maintain records of air contaminant concentrations during MSS activities.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PERMIT SC 29  
OP ST&C 11

Description: Failure to ensure validated emission rates for all activities associated with EPN FUG-MSS are submitted to the TCEQ.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 115, SubChapter B 115.142(1)(A)  
30 TAC Chapter 115, SubChapter B 115.142(1)(B)  
30 TAC Chapter 115, SubChapter B 115.142(1)(C)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
Rqmt Prov: PERMIT SC 12  
OP ST&C 11

Description: Failure to ensure that cover on the small basins at the entrance to the WWTP (T-8000 and T-8001) are kept in place at all times except when opened for access.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 115, SubChapter B 115.142(1)(G)  
30 TAC Chapter 115, SubChapter B 115.142(1)(H)  
30 TAC Chapter 115, SubChapter B 115.144(1)(A)

Description: Failure to ensure seals and cover connection on WWTP equipment are inspected semiannually as required.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 115, SubChapter B 115.146(2)  
30 TAC Chapter 115, SubChapter B 115.146(4)

Description: Failure to maintain records of the results of inspections or monitoring of the cover on basins T-8000 and T-8001.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 106, SubChapter A 106.4(c)  
30 TAC Chapter 116, SubChapter B 116.110

Description: Failure to maintain PBR documentation for the site parts washer.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 113, SubChapter C 113.1090  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6585

Description: Failure to include the applicable requirements for the site's emergency engines in the Title V permit.  
Viol. Moderate  
Classification:  
Citation: 30 TAC Chapter 113, SubChapter C 113.1090  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6603(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6655(e)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6655(f)

Description: Failure to maintain records to document maintenance required by Table 2d of Subpart ZZZZ.  
Viol. Moderate

Classification:

Citation: 30 TAC Chapter 113, SubChapter C 113.1090  
30 TAC Chapter 117, SubChapter D 117.2035(g)  
30 TAC Chapter 117, SubChapter D 117.2045(b)  
30 TAC Chapter 117, SubChapter D 117.2045(c)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6655(e)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6655(f)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6660(a)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6660(b)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6660(c)

Rqmt Prov: OP ST&C 6.B

Description: Failure to develop an operations and maintenance program, maintain records on an ongoing basis, and install non-resettable run time meters on the emergency engines.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.110

Description: Failure to prevent three recordable emissions events that were discovered on August 20, 2019, September 25, 2019, and October 24, 2019.

Disclosure Date: 03/26/2020

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

Rqmt Prov: OP ST&C 11

Description: Failure to authorize the use of MeCl2 as a solvent for vessel cleaning.

Notice of Intent Date: 08/19/2019 (1605065)

Disclosure Date: 03/26/2020

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 305, SubChapter C 305.45  
30 TAC Chapter 305, SubChapter C 305.48(a)(2)

Description: Failure to authorize the management of wastewater in Deluge Containment Lagoon and Round Lake.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part II A.4.f

Description: Failure to conduct employee training of the Stormwater Pollution Prevention Plan as required and maintain records.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part III Section B.2.

Description: Failure to complete quarterly general inspections required under the MSGP.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part III Section C

Description: Failure to complete and document quarterly visual inspection of storm water discharges from outfalls.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part III Section C

Description: Failure to conduct annual monitoring of storm water discharges for hazardous metals and maintain copies of DMRs.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part III B.5.

Description: Failure to complete annual site compliance evaluations.

Viol. Moderate

Classification:

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

Rqmt Prov: PERMIT Part III.A.

Description: Failure to maintain a complete and up to date Storm water Pollution Prevention Plan.

Viol. Moderate

Classification:

Citation: 40 CFR Chapter 122, SubChapter D, PT 122, SubPT C 122.41(a)

Rqmt Prov: PERMIT Monitoring & Reporting 7(c)

Description: Failure to submit an exceedance notification to the TCEQ when BOD at Outfall 101 analyzed at three times the allowable maximum.

Disclosure Date: 08/18/2020

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(A)

Description: Failure to inspect the storage containers on a weekly basis and ensure drums are labeled with the words hazardous waste and the date of accumulation.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(2)

30 TAC Chapter 335, SubChapter C 335.69(a)(3)

Description: Failure to ensure satellite accumulation drums are labeled as hazardous waste and that waste is stored in containers that are appropriate for the storage of potentially reactive hazardous waste.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(b)

Description: Failure to ensure that hazardous waste are not stored for more than 90 days in NOR WMU No. 013.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(4)(A)

Description: Failure to ensure adequate aisle spacing to allow inspection in NOR WMU No. 13.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(d)(2)

30 TAC Chapter 335, SubChapter C 335.69(e)

Description: Failure to comply with the accumulation maximum amount of 55 gallons in satellite accumulation areas.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(A)

Description: Failure to send copies of the contingency plan to the local fire and police departments or hospital.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.69(e)

Description: Failure to ensure drums of hazardous waste are closed and that drums are in good condition.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter C 335.62

Description: Failure to provide a no smoking signs in ignitable waste storage areas.

Viol. Minor

Classification:

Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195

30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)

Description: Failure to have RCRA tank daily inspection logs for T9105 and T9106 for the dates listed.

Viol. Moderate

Classification:

Citation: 40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.14

40 CFR Chapter 273, SubChapter I, PT 273, SubPT B 273.15

30 TAC Chapter 335, SubChapter H 335.261(a)

Description: Failure to ensure that universal waste are labeled as such and ensure they are not accumulate for more than a year.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter H 335.261(e)

Description: Failure to documentation authorization for lamp crushing device.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Description: Failure to ensure that Notice of Registration is current with waste management units, waste streams, and various waste codes.

Viol. Minor

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.13(k)

Description: Failure to maintain final copies of four manifest and failure to file exception reports.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)

Description: Failure to ensure correct label/signage on Rolloff Box 3138 when it was labeled as storing Class 1 waste but the sign indicates Class 2 waste.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter H 335.262(c)(2)

Description: Failure to correctly label a drum. Drum was labeled as paint when it contained paint related debris.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.27

Description: Failure to maintain waste characterization for the spent carbon drums and packs.

Viol. Moderate

Classification:

Citation: 30 TAC Chapter 335, SubChapter A 335.6

Description: Failure to ensure that the tote of concrete slurry located outside of Building 405 is stored in an area designed as a waste management unit.

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DSM NUTRITIONAL PRODUCTS, LLC  
RN101190221

§           BEFORE THE  
§  
§           TEXAS COMMISSION ON  
§  
§           ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2023-0102-AIR-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DSM Nutritional Products, LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a medicinal chemicals and botanical products manufacturing plant located at 1000 County Road 227 in Freeport, Brazoria County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$12,000 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,600 of the penalty and \$2,400 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that by December 13, 2022, the Respondent repaired or replaced the check valves upstream of XV.C2105.02 and PCV.C2105.01; repaired or replaced H.2109.30, PCV.C2105.01, and XV.C2105.02; properly installed the bull plug located on the Nitrogen Supply Line with teflon tape and tool tight; implemented an interlock to close XV.C2105.01 when the C-2105 pressure approaches 1.5 bar; updated the work processes to include regular open-ended line inspections; verified that the design of XV.C2105.02 was adequate for ammonia service; implemented an Etinol and Vinylol Unit Startup Checklist to be used in conjunction with the Plant's existing Startup Procedure; updated the Production Walkthrough Procedure to require weekly checks performed by the Operations personnel to inspect for open ended lines and reinstall caps/plugs as necessary; updated the Lockout, Tag Out, and Try Out Procedure to instruct responsible personnel to confirm that all plugs and caps are reinstalled; and implemented preventive maintenance on the C-2105 Nitrogen Supply System in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 353527.

## II. ALLEGATIONS

During a record review for the Plant conducted from April 15, 2021 through April 30, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review Permit No. 19797, Special Conditions No. 1, Federal Operating Permit No. O3943, General Terms and Conditions and Special Terms and Conditions No. 11, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 993.54 pounds of ammonia as fugitive emissions, during an emissions event (Incident No. 353527) that began on March 31, 2021 and lasted 72 hours.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for



violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DSM Nutritional Products, LLC, Docket No. 2023-0102-AIR-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. All relief not expressly granted in this Order is denied.
3. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
4. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

-----  
Date

  
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For the Executive Director

4/15/2024

-----  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
-----  
Signature

20 FEBRUARY 2024  
-----  
Date

TRAVOR RICHARDSON  
-----  
Name (Printed or typed)  
Authorized Representative of  
DSM Nutritional Products, LLC

SR. PRODUCTION MANAGER  
-----  
Title

If mailing address has changed, please check this box and provide the new address below:

**Instructions:** Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.