

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PIONEER AMERICAS LLC

AI # 2644

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

* Settlement Tracking No.
* SA-AE-18-0065
*
* Enforcement Tracking No.
* AE-CN-15-00732
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* Docket No. 2016-8489-EQ
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SETTLEMENT

The following Settlement is hereby agreed to between Pioneer Americas 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 chlorine-alkali facility located in Iberville Parish, Louisiana (“the Facility”).

II

On June 17, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00732, attached as Exhibit A.

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 SIXTEEN THOUSAND NINE HUNDRED FORTY-FOUR AND 50/100 DOLLARS (\$16,944.50), of which One Thousand Nine Hundred Forty-Four and 50/100 Dollars (\$1,944.50) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

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

VII

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may

be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act [*and, where applicable: "and the rules relating to beneficial environmental projects set forth in LAC 33:I.Chapter 25"*].

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 Iberville Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department.

Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit B).

XII

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

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.

Pioneer Americas LLC

BY: Jay Tubre
(Signature)
Jaclyn Tubre
(Printed)

TITLE: Production Leader

THUS DONE AND SIGNED in duplicate original before me this 11th day of December, 20 18, at St. Gabriel, Louisiana.

D. Annette McKay
NOTARY PUBLIC (ID # 78184)

D. Annette McKay
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 20th day of Feb, 20 19, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

June 17, 2016

CERTIFIED MAIL (7014 0510 0002 3595 2970)
RETURN RECEIPT REQUESTED

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

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-15-00732
AGENCY INTEREST NO. 2644**

Dear Sir:

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 **PIONEER AMERICAS LLC (RESPONDENT)** for the violations described therein.

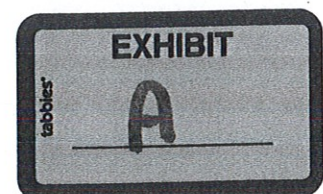
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Bridget Rogers at (225) 219-3748 or via email at bridget.rogers@la.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena V. Cage".

Celena V. Cage
Administrator
Enforcement Division



CJC/BDR/bdr
Alt ID No.1280-00011
Attachment

c: Pioneer Americas LLC
d/b/a Olin Chlor Alkali Products
190 Carondelet Plaza, Suite 1530
Clayton, MO 63105

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

PIONEER AMERICAS LLC
IBERVILLE PARISH
ALT ID NO. 1280-00011

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

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ENFORCEMENT TRACKING NO.

AE-CN-15-00732

AGENCY INTEREST NO.

2644

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **PIONEER AMERICAS LLC (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 the St. Gabriel Facility, a chlorine-alkali plant, located at 4205 Louisiana Highway 75 in St. Gabriel, Iberville Parish, Louisiana. Pioneer Americas LLC does business under the registered trade name Olin Chlor Alkali Products. The Respondent has operated the facility under the authority of the following air permits:

Permit	Issue Date	Expiration Date
Air Permit No. 1280-00011-05	December 22, 2015	December 22, 2025
Air Permit No. 1280-00011-04AA	December 13, 2011	September 16, 2021
Air Permit No. 1280-00011-04	September 16, 2011	September 16, 2021
Title V Air Permit No. 1280-00011-V1	December 16, 2010	November 26, 2013
Title V Air Permit No. 1280-00011-V0	November 26, 2008	November 26, 2013
Air Permit No. 1280-00011-03	August 10, 2007	N/A

II.

On or about December 29, 2014, an inspection of the facility was performed to determine the degree of compliance with the Act and the Air Quality Regulations. A subsequent file review was conducted on April 27, 2016. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. According to the notification report for Incident 165576, an unauthorized discharge of chlorine occurred at the facility from August 15-16, 2015. The Respondent reported the release of 62 pounds (lbs) of chlorine gas into the atmosphere beginning at 10:30 PM on August 15 and ending at 2:30 PM on August 16, 2015. The release was caused by a buildup of material in the inlet nozzle to a venturi scrubber that led to high pressure in the line. The release of 62 lbs of chlorine exceeds the Reportable Quantity (RQ) of 10 lbs. Failure to diligently maintain air pollution control facilities in proper working order is a violation of LAC 33:III.905.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- B. According to the notification report for Incident 160773, an unauthorized discharge of chlorine occurred at the facility on December 29, 2014. The Respondent reported the release of 11,946 lbs of chlorine gas into the atmosphere at approximately 6:32 AM. According to a revised report submitted August 19, 2015, the discharge occurred after pressure indication controls were isolated from Chlorine Storage Tank T915; the tank pressurized to 300 pounds per square inch gauge (PSIG) and activated the relief valves. The release of 11,946 lbs of chlorine exceeds the permitted limit of 0.10 tons per year (200 lbs) of chlorine and the RQ of 10 lbs. This is a violation of Air Permit No. 1280-00011-04AA, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Failure to diligently maintain air pollution control facilities in proper working order is a violation of LAC 33:III.905.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- C. On January 13, 2015, the Department received a written notification report for Incident 160773 from the Respondent dated January 5, 2015. In the report, the Respondent failed to specify the following details required by LAC 33:I.3925.B for written notification procedures, including: details of the circumstances and events leading to the unauthorized discharge, whether the release point is subject to a permit, the current permitted limit for the pollutant releases, the permitted release point, and which limits were exceeded; the procedures or measures which have or will be adopted to prevent recurrence of the incident; and a determination by the discharger of whether or not the discharge was preventable. The Respondent submitted the missing information to the Department in a revised report dated August 19, 2015. Failure to include all of the required details in the written notification report for Incident 160773 is a violation of LAC 33:I.3925.B and La. R.S. 30:2057(A)(2). The Respondent also failed to provide updates of the status of the ongoing investigation every 60 days until the investigation was complete, in violation of LAC 33:I.3925.A.3 and La. R.S. 30:2057(A)(2).

- D. According to the notification report for Incident 156880, an unauthorized discharge of chlorine occurred at the facility on June 18, 2014. The Respondent reported the release of 43 lbs of chlorine gas at 8:56 AM. The discharge was reportedly due to a vibration abrasion on chlorine piping that caused a tear in the outlet line of a heat exchanger. The release of 43 lbs of chlorine gas exceeds the RQ of 10 lbs. Failure to diligently maintain air pollution control facilities in proper working order is a violation of LAC 33:III.905.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- E. On June 25, 2014, the Department received a written notification report for Incident 156880 from the Respondent dated June 20, 2014. In the report, the Respondent failed to specify the following details required by LAC 33:I.3925.B for written notification procedures, including: details of the circumstances and events leading to any unauthorized discharge, whether the release point is subject to a permit, the current permitted limit for the pollutant releases, the permitted release point, and which limits were exceeded; remedial actions taken, or to be taken; procedures or measures which have or will be adopted to prevent recurrence of the incident; and a determination by the discharger of whether or not the discharge was preventable. The Respondent submitted the missing information to the Department in a revised report dated August 19, 2015. Failure to include all of the required details in the written notification report for Incident 156880 is a violation of LAC 33:I.3925.B and La. R.S. 30:2057(A)(2). The Respondent also failed to provide updates of the status of the ongoing investigation every 60 days until the investigation was complete, in violation of LAC 33:I.3925.A.3 and La. R.S. 30:2057(A)(2).

II.

The Department conducted a Chemical Accident Prevention Program (CAPP) inspection at the facility on or about March 17-19, 2015. According to the inspection report dated March 25, 2015, the following areas of concern were noted during the course of the inspection:

- A. The Respondent failed to conduct inspections of instruments at a frequency consistent with good engineering practices. The storage tank pressure system instrument checks (PMs) are not being conducted as required. Specifically, the PM 14781 and PM 18580 checks/tests are not being performed every two (2) years. The PM 19720 chlorine compressor annual check is not being performed every year. The LIC6151 instrument is not being tested every two (2) years. The PT326 instrument on the F602 vessel lacks a maintenance plan and, therefore, has not been tested. In regard to the SAP program, which contains the inspection frequencies and schedules inspections: the external ultrasonic thickness corrosion monitoring (UT) is not being conducted every two (2) years; the hydro test is not being performed every six (6) years; and the internal UT inspection is not being performed at a six (6) year interval on all chlorine storage tanks. The Respondent uses the American Petroleum Institute (API 570) standard, which classifies the 600.2P CL 6198 chlorine vapor line as class one and requires external UT inspections every five (5) years or half of the remaining life. The inspector noted that one visual inspection

report stated a portion of this line was iced, but the remainder of the line was available for testing and had not been inspected. The failure to conduct these inspections is a violation of 40 CFR 68.73(d)(3), which language has been adopted in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- B. The Respondent's inspection and testing procedures failed to follow and generally accept good engineering practices. Specifically, the American Petroleum Institute recommends UT test data be evaluated using described calculation methodology, but the necessary calculations were not performed for the T902B vessel in the December 2014 inspection. This is a violation of 40 CFR 68.73(d)(2), which language has been adopted in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

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, including all applicable CAPP regulations.

II.

To perform all missed performance checks, tests, and/or inspections cited in Findings of Fact Section II, Paragraph A, within sixty (60) days of receipt of this **COMPLIANCE ORDER**.

III.

To develop a maintenance plan for the PT326 instrument on the F602 vessel, and submit a copy of the plan to the Enforcement Division, within thirty (30) days of receipt of this **COMPLIANCE ORDER**.

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. 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: **Bridget Rogers**
Re: **Enforcement Tracking No. AE-CN-15-00732**
Agency Interest No. 2644

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-15-00732
Agency Interest No. 2644

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 Department's Rules of Procedure. 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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. 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 Bridget Rogers at (225) 219-3748 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

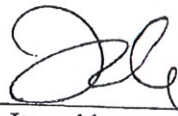
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross

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.

IV.

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

Baton Rouge, Louisiana, this 17th day of June, 2016.



Lourdes Iturralde
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: Bridget Rogers