STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No. SA-AE-19-0016**
CERTAINTEED CORPORATION	*	
AI # 3063	*	**Enforcement Tracking No. AE-CN-15-00591**
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT LA. R.S. 30:2001, ET SEQ.	*	**Docket No. 2018-1817-EQ**

SETTLEMENT

The following Settlement is hereby agreed to between CertainTeed Corporation ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns and/or operates a polyvinyl chloride polymer (PVC) production plant located in Westlake, Calcasieu Parish, Louisiana ("the Facility").

II

On November 9, 2016, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-15-00591 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures

and/or penalties.

V

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of ONE HUNDRED ELEVEN THOUSAND SIX HUNDRED SIXTY-THREE AND NO/100 DOLLARS ($111,663.00), of which One Thousand Four Hundred Eighty-Eight and 08/100 Dollars ($1,488.08) 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 permit record(s), the 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.

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 Calcasieu 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 twenty (20) 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 or electronic funds transfer (ETF) , payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office

Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

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.

CERTAINTEED CORPORATION

BY: _____
(Signature)

Rick Holt
(Printed)

TITLE: Siding Manufacturing Director

THUS DONE AND SIGNED in duplicate original before me this 26th day of September, 20 19, at Malvern, PA.

Brenda A. Robertson
NOTARY PUBLIC (ID # 1139006)

Commonwealth of Pennsylvania - Notary Seal
BRENDA A. ROBERTSON, Notary Public
Chester County
My Commission Expires October 31, 2021
Commission Number 1139006

_____
(stamped or printed)

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

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 18th day of Dec, 20 19, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: _____
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

November 9, 2016

CERTIFIED MAIL (7004 2510 0006 3853 4299)
RETURN RECEIPT REQUESTED

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

RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-15-00591
AGENCY INTEREST NO. 3063

Dear Sir(s):

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 **CERTAINTEED CORPORATION (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 Richard LeBlanc at (225) 219-3165.

Sincerely,

Celena L. Cage
Administrator
Enforcement Division

CJC/RDL/rdl
Alt ID No. 0520-00025
Attachment

EXHIBIT
tabbies
1

c: CertainTeed Corporation
P.O. Box 1189
Sulphur, LA 70664-1189

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
CERTAINTEED CORPORATION	*	**ENFORCEMENT TRACKING NO.**
CALCASIEU PARISH	*	
ALT ID NO. 0520-00025	*	**AE-CN-15-00591**
	*	
	*	**AGENCY INTEREST NO.**
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	**3063**
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **CERTAINTEED CORPORATION (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 Lake Charles Polymer Plant (facility), an existing polyvinyl chloride (PVC) polymer production plant. The facility is located at 3300 Pete Manena Road in Westlake, Calcasieu Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 0520-00025-06 issued on October 7, 2011, and administratively amended on July 27, 2015. The facility is registered as Program Level 3 under the Chemical Accident Prevention Provisions program.

II.

On or about February 24, 2015, through February 26, 2015, the Department conducted a full compliance audit at the facility for the Chemical Accident Prevention Provisions set forth in LAC 33:III.5901. Additionally, the Department conducted a file review for the facility on or about April 27, 2016.

While the Department's investigation is not yet complete, the following violations were discovered during the course of the audit and file review:

A. The Respondent failed to, at least every five (5) years after the completion of the initial hazard analysis, update and revalidate the process hazard analysis. Specifically, the last available process hazard analysis available for review was from 2004. The facility conducted a process hazard analysis in 2014; however, the report had not yet been issued and was not available for review at the time of the inspection. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.67(f), and La. R.S. 30:2057(A)(2).

B. The Respondent failed to establish a system to promptly address the findings and recommendations of a process hazard analysis. Specifically, the Respondent failed to complete actions as soon as possible. The process hazard analysis revalidation was conducted in November 2013 through July 2014 with issuance of the draft report in July 2014. There were action items designated as "unacceptable" that were not addressed by the time of the inspection. Additionaliy, the Respondent did not develop a written schedule of when the action items would be completed. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.67(e), and La. R.S. 30:2057(A)(2).

C. The Respondent failed to develop written operating procedures that address normal shutdowns. Specifically, the inspection could not establish that the facility had normal shutdown procedures. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.69(a)(1)(vi), and La. R.S. 30:2057(A)(2).

D. The Respondent failed to certify annually that the operating procedures are current and accurate. Specifically, at the time of the inspection the Respondent was not annually certifying procedures and did not have an organized approach to meeting the requirement. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.69(c), and La. R.S. 30:2057(A)(2).

E. The Respondent failed to provide refresher training as least every three (3) years to each employee involved in operating a process. Additionally, the Respondent failed to consult employees involved in operating the process on the appropriate frequency of refresher training. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.71(b), and La. R.S. 30:2057(A)(2).

F. The Respondent failed to perform inspections and tests on process equipment. Specifically, the following was noted during the inspection: there were no visual inspections on vessels R-201, AK-121 and the Short Stop Tank; there were no visual

inspections on vessels except for the autoclaves; there are no visual inspections for process piping; there were no tests of the three (3) level transmitters associated with the VCM Day Tank or the three (3) level transmitters associated with the operable VCM Storage Tank; and the Respondent is unable to manage the inspection frequencies for critical instruments, autoclave BLH systems and level transmitters associated with the VCM Day Tank and VCM Storage Tank due to them not being included in the work order system and not being a part of the scheduled testing program. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(1), and La. R.S. 30:2057(A)(2).

G. The Respondent failed to conduct inspection and testing procedures that follow recognized and generally accepted good engineering practices. Specifically, the following was noted during the inspection: many vessels had passed retirement dates and inspection due dates; vessel retirement dates were based on incorrect retirement thicknesses leading to invalid remaining life and inspection date values; many vessels and pipes had corrosion rates that were not representative of actual corrosion rates based on data provided by the inspection contractor; the alpha autoclave internal thickness readings were easily identifiable as erroneous due to extremely low readings; retirement dates reflected in thickness data sheets indicate that vessels should have been re-rated or taken out of service as far back as 2006 while still being operated at the time of the inspection; previous thickness surveys regarding the VCM-A Storage vessel utilized incorrect retirement thicknesses leading to invalid retirement and re-inspection dates; and reviewed data for most pieces of equipment revealed unusual variance in measurement results. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(2), and La. R.S. 30:2057(A)(2).

H. The Respondent failed to document the name of the person who performed the inspection or test for each inspection and test that has been performed on process equipment. Specifically, the inspector was not documented for the 2006 ultrasonic thickness inspections of all vessels and piping. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(4), and La. R.S. 30:2057(A)(2).

I. The Respondent failed to correct deficiencies in equipment that are outside acceptable limits before further use. Specifically, a 2006 thickness inspection identified several piping lines as needing further evaluation with no action taken to address the issues. A degassing line was identified with locations that had a 2008 retirement date; however, no repairs, replacements or additional inspections or tests were conducted on the line. Additionally, retirement dates from a 2007 external inspection were all

calculated to be in 2006 and the equipment was not removed from service. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(e), and La. R.S. 30:2057(A)(2).

J. The Respondent failed to conduct inspections and tests with frequencies consistent with applicable manufacturers' recommendations and good engineering practices. The facility has been in operation since 1975; however, six (6) autoclaves have had only one (1) internal corrosion inspection. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(3), and La. R.S. 30:2057(A)(2).

K. The Respondent failed to establish and implement written procedures to manage changes. Specifically, MOC 13-004 made procedure changes that were effective prior to training dates of operators being trained in the procedure. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.75(c), and La. R.S. 30:2057(A)(2).

L. The Respondent failed to certify that they have evaluated compliance with the Chemical Accident Prevention provisions at least every three (3) years. Specifically, the facility's audit conducted in 2008 was approximately one (1) year late and the audit conducted in 2013 was due in 2011. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.79(a), and La. R.S. 30:2057(A)(2).

M. The Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audit and document that deficiencies have been corrected. Specifically, the 2008 audit contained twelve (12) findings that were not addressed by the time of the inspection. Additionally, no appropriate response was determined to correct deficiencies from the 2013 audit and there was no documentation to show that deficiencies were corrected. Each failure is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.79(d), and La. R.S. 30:2057(A)(2).

N. The Respondent failed to inform the contract owner or operator of the known potential fire, explosion or toxic release hazards related to the contractor's work and the process. During the inspection, a contractor was observed to have no site specific training. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.87(b)(2), and La. R.S. 30:2057(A)(2).

O. The Respondent failed to explain to the contract owner or operator the applicable provisions of the emergency response program. During the inspection, a contractor was observed to have no site specific training. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.87(b)(3), 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, but not limited to, LAC 33:III.5901.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a complete report from the 2014 process hazard analysis as referenced in Findings of Fact subparagraph II.A.

III.

To establish, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a system to promptly address the findings and recommendations of the 2014 process hazard analysis, and to submit to the Enforcement Division documentation of what actions are to be taken and a written schedule of when these actions are to be completed.

IV.

To develop, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, written operating procedures that provide clear instructions for safely conducting normal shutdowns consistent with the process safety information according to 40 CFR 68.69(a)(1)(vi), and to submit a copy of these procedures to the Enforcement Division.

V.

To review, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the operating procedures to assure that they reflect current operating practice and certify that the operating procedures are current and accurate according to 40 CFR 68.69(c), and to submit evidence of the certification to the Enforcement Division.

VI.

To provide, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, refresher training to each employee involved in operating a process and consult each employee in operating the process to determine the appropriate frequency of refresher training according to 40 CFR 68.71(b), and to submit evidence of the training and consultation to the Enforcement Division.

VII.

To perform, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, inspections and tests on process equipment that follow recognized and generally accepted good engineering practices and are consistent with applicable manufacturers' recommendations according to 40 CFR 68.73, to correct deficiencies in equipment that are outside acceptable limits before further use or in a safe and timely manner when necessary means are taken to assure safe operation, and to submit evidence of the inspections and tests to the Enforcement Division.

VIII.

To develop, within thirty (30) days after receipt of this **COMPLIANCE ORDER,** written procedures to manage change to process chemicals, technology, equipment and procedures according to 40 CFR 68.69(a)(1)(vi), and to submit a copy of these procedures to the Enforcement Division.

IX.

To conduct, within (30) days after receipt of this **COMPLIANCE ORDER**, an updated compliance audit to verify compliance with the Chemical Accident Prevention provisions and determine and document a response to each finding of the compliance audit according to 40 CFR 68.79, and to submit evidence of the audit to the Enforcement Division.

X.

To develop, within (30) days after receipt of this **COMPLIANCE ORDER**, a system to inform contract owners or operators of the known potential fire, explosion or toxic release hazards related to the contractors' work and the process and the applicable provisions of the Chemical Accident Prevention provisions according to 40 CFR 68.87(b)(2-3); document that each contract employee has received and understood such training according to 40 CFR 68.87(c)(3); and to submit evidence of the system and training to the Enforcement Division.

XI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances

surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Richard LeBlanc
Re: Enforcement Tracking No. AE-CN-15-00591
Agency Interest No. 3063

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-15-00591
Agency Interest No. 3063

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 Richard LeBlanc at (225) 219-3165 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 9th day of November, 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: Richard LeBlanc