

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LHOIST NORTH AMERICA
OF MISSOURI, INC.

AI # 6264

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

* Settlement Tracking No.
* SA-AE-20-0003
*
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* Enforcement Tracking No.
* AE-PP-18-00618
* AE-PP-18-00618A
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SETTLEMENT

The following Settlement is hereby agreed to between Lhoist North America of Missouri, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates the Port Allen Terminal, a facility located in Port Allen, West Baton Rouge Parish, Louisiana (“the Facility”).

II

On October 5, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-18-00618 (Exhibit 1).

On February 14, 2020, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. AE-PP-18-00618A (Exhibit 2).

III

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

and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of THREE THOUSAND AND NO/100 DOLLARS (\$3,000.00), of which One Thousand Four Hundred Forty-Four and 18/100 Dollars (\$1,444.18) 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).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty, Amended 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.

VI

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.

VII

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.

VIII

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

IX

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

X

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 A).

XI

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

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

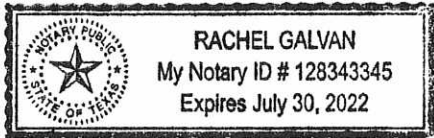
LHOIST NORTH AMERICA OF MISSOURI, INC.

BY: Kenneth Curtiss
(Signature)

Kenneth t. Curtiss
(Printed)

TITLE: Vice President

THUS DONE AND SIGNED in duplicate original before me this 30th day of JUNE, 20 20, at Fort Worth, TX 76109



Rachel Galvan
NOTARY PUBLIC (ID # 128343345)

RACHEL GALVAN
(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 1st day of October, 20 20, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 32503)

Amber Grenville Litchfield
(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

NOTICE OF POTENTIAL PENALTY



Enforcement Tracking No.	AE-PP-18-00618	Certified Mail No.	7012 2210 0001 1915 9630
Agency Interest (AI) No.	6264	Contact Name	Alissa Cockerham
Alternate ID No.	3120-00041	Contact Phone No.	(225) 219-3785
Respondent:	Lhoist North America of Texas, LTD.	Facility Name:	Port Allen Terminal
	c/o The Prentice-Hall Corporation System, Inc.	Physical Location:	1785 South Westport Drive
	Agent for Service of Process		
	501 Louisiana Avenue Baton Rouge, LA 70802	City, State, Zip: Parish:	Port Allen, LA 70761 West Baton Rouge

This **NOTICE OF POTENTIAL PENALTY** is issued 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 30:2050.3(B).

FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates the Port Allen Terminal (the Facility) located at 1785 South Westport Drive, Port Allen, West Baton Rouge Parish, Louisiana. The Facility is a lime loading, processing, storing and distributing terminal which currently operates under Air Permit No. 3120-00041-06, issued May 27, 2014.	
	Date of Violation	Description of Violation
II.	Inspection(s) & File Review 5/3/2018 & 9/7/2018	The Respondent failed to keep daily emissions observation records for truck loading equipment (EQT 23 – EQT 26) from January 5, 2018 through the time of the inspection on May 3, 2018. Each failure to keep records of visible emission checks on site and available for inspection is a violation of Specific Requirement Nos. 61, 71, 77, and 83 of Air Permit No. 3120-00041-06, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). On May 7, 2018, a Facility representative sent email correspondence to the Department with a copy of the Dust Collectors Observation Report for May 4-7, 2018, and stated that the Facility had restarted daily truck loading emissions observation records.

NOTICE OF POTENTIAL PENALTY

I.	Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.
II.	Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Alissa Cockerham at (225) 219-3785 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY .
III.	The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.
V.	To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.



CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division:

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

Physical Address (if hand delivered):

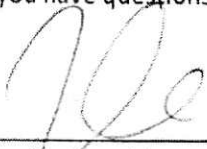
Department of Environmental Quality
602 N Fifth Street
Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.

- The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Alissa Cockerham at (225) 219-3785 or Alissa.cockerham@la.gov.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date:

10-5-18

c: Port Allen Terminal
c/o Alton McCaffrey
1785 South Westport Drive
Port Allen, LA 70761

Attachment(s)

- Request to Settle

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	AE-PP-18-00618	Contact Name	Alissa Cockerham
Agency Interest (AI) No.	6264	Contact Phone No.	(225) 219-3785
Alternate ID No.	3120-00041		
Respondent:	Lhoist North America of Texas, LTD.	Facility Name:	Port Allen Terminal
	c/o The Prentice-Hall Corporation System, Inc.	Physical Location:	1785 South Westport Drive
	Agent for Service of Process		
	501 Louisiana Avenue Baton Rouge, LA 70802	City, State, Zip:	Port Allen, LA 70761
		Parish:	West Baton Rouge

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

_____ The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (AE-PP-18-00618), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

_____ In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (AE-PP-18-00618), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional)= \$ _____
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-** the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

_____ The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY** (AE-PP-18-00618) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

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

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

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

If you have questions or need more information, you may contact Alissa Cockerham at (225) 219-3785 or Alissa.cockerham@la.gov.

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 14, 2020

CERTIFIED MAIL (7012 2210 0001 1915 5366)
RETURN RECEIPT REQUESTED

LHOIST NORTH AMERICA OF MISSOURI, INC.
c/o Corporation Service Company
Agent for Service of Process
501 Louisiana Avenue
Baton Rouge, Louisiana 70802

**RE: AMENDED NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-18-00618A
AGENCY INTEREST NO. 6264**

Dear Sir or Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **AMENDED NOTICE OF POTENTIAL PENALTY** is hereby served on **LHOIST NORTH AMERICA OF MISSOURI, INC. (RESPONDENT)** for the violation described therein.

Any questions concerning this action should be directed to Alissa Cockerham at (225) 219-3785.

Sincerely,

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

Celena J. Cage
Administrator
Enforcement Division

CJC/ARC/arc
Alt ID No. 3120-00041
Attachment

c: Port Allen Terminal
c/o Alton McCaffrey
1785 South Westport Drive
Port Allen, Louisiana 70761



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
LHOIST NORTH AMERICA OF MISSOURI, INC.	*	ENFORCEMENT TRACKING NO.
WEST BATON ROUGE PARISH	*	
ALT ID NO. 3120-00041	*	AE-PP-18-00618A
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT, La. R.S. 30:2001, ET SEQ.	*	6264
	*	

AMENDED NOTICE OF POTENTIAL PENALTY

The Louisiana Department of Environmental Quality (the Department) hereby amends the **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-PP-18-00618** issued to **LHOIST NORTH AMERICA OF TEXAS, LTD. (RESPONDENT)** on October 5, 2018 in the above-captioned matter as follows:

I.

The Department hereby amends the Respondent's name in every occurrence from **LHOIST NORTH AMERICA OF TEXAS, LTD.** to **LHOIST NORTH AMERICA OF MISSOURI, INC.**


II.

The Department incorporates all of the remainder of the original **NOTICE OF POTENTIAL PENALTY, ENFORCEMENT TRACKING NO. AE-PP-18-00618** and **AGENCY INTEREST NO. 6264** as if reiterated herein.

III.

This **AMENDED NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 14th day of February, 2020.



Lourdes Hurrealde
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
Post Office Box 4312
Baton Rouge, LA 70821-4312
Attention: Alissa Cockerham