

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

CARGILL, INCORPORATED

AI # 14010

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

\* Settlement Tracking No.  
\* SA-AE-20-0097  
\*  
\* Enforcement Tracking Nos.  
\* AE-PP-16-01067  
\* AE-CN-17-00502  
\*  
\*  
\*  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Cargill, Incorporated (“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 grain storage and export facility located in Westwego, Jefferson Parish, Louisiana (“the Facility”).

II

On February 23, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-16-01067 (Exhibit 1).

On March 29, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-17-00502 (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 FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00), of which One Thousand Five Hundred Eleven and 91/100 Dollars (\$1,511.91) 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 and 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.

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 Jefferson 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.

CARGILL, INCORPORATED

BY: \_\_\_\_\_

*Marcus E. Mears*  
(Signature)

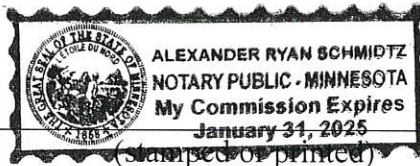
**Marcus E. Mears**  
Vice President  
Cargill Agricultural Supply Chain  
North America

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this 13 day of April, 20 21, at Wayzata, Minnesota.

*Alexander Ryan Schmidt*  
\_\_\_\_\_

NOTARY PUBLIC (ID # 116659400031)



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

BY: \_\_\_\_\_

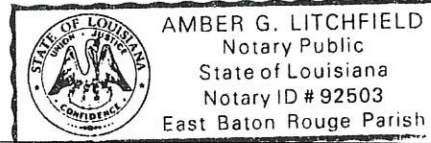
*Lourdes Iturralde*  
\_\_\_\_\_

Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of September, 20 21, at Baton Rouge, Louisiana.

*Amber G. Litchfield*  
\_\_\_\_\_

NOTARY PUBLIC (ID # 92503)



(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

February 23, 2017



CERTIFIED MAIL (7014 0510 0001 7431 7335)  
RETURN RECEIPT REQUESTED

**CARGILL, INCORPORATED**  
c/o Theodore M. Haik III  
Haik, Minvielle & Grubbs, LLP  
Agent for Service of Process  
1017 East Dale Street  
New Iberia, LA 70562-1040

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-PP-16-01067  
AGENCY INTEREST NO. 14010**

Dear Sir:

On or about September 14, 2016 and September 20, 2016, inspections of the **WESTWEGO MARINE TERMINAL (the Facility)**, a grain storage and export facility, owned and/or operated by **CARGILL, INCORPORATED (RESPONDENT)**, were performed, as a result of a citizen complaint, to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. On or about January 9, 2017, the Louisiana Department of Environmental Quality (the Department) conducted a file review of the Respondent's facility to determine the degree of compliance with the Act, the Air Quality Regulations and any applicable permits. The facility is located at 933 River Road in Westwego, Jefferson Parish, Louisiana. The facility operates, or has operated, under the Small Source Permits listed in Table A:

<b>TABLE A</b>	
<b>Permit No.</b>	<b>Permit Issue Date</b>
1340-00030-07	June 4, 2010
1340-00030-08	November 15, 2011
1340-00030-09	October 21, 2014
1340-00030-10	August 13, 2015

While the investigation by the Department is not yet complete, the following violation was noted during the course of the inspections and file review:



Photographs taken by the inspector during the September 14, 2016 inspection revealed that the facility was loading a grain barge with the facility loading spout maintained approximately twenty feet above the barge loading coaming while topping off the barge, creating noticeable dust emissions. Specific Requirement 22 of Air Permit 1340-00030-10 states "Permittee shall place the ship loading spout below the ship coaming while loading, and as close as possible (approximately two feet) from the material pile when topping off". This is a violation of Specific Requirement 22 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

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 described herein. Written comments may be filed regarding the violation 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.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

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

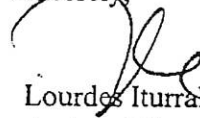
The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent 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.

Cargill, Incorporated  
AE-PP-16-01067  
Page 3

The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at [\\_DEQ-WWWFinancialServices@la.gov](mailto:_DEQ-WWWFinancialServices@la.gov) to determine if you owe outstanding fees.

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

Sincerely,




Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

LI/MEB/meb  
Alt ID No. 1340-00030

c: Cargill Incorporated  
Andreana Pruitt  
933 River Road  
Westwego, La 70094



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		<b>NOTICE OF POTENTIAL PENALTY                  REQUEST TO SETTLE (OPTIONAL)</b>		
Enforcement Tracking No.	AE-PP-16-01067	Contact Name	Mark E. Brown	
Agency Interest (AI) No.	14010	Contact Phone No.	(225) 219-3782	
Alternate ID No.	1340-00030			
Respondent:	Cargill, Incorporated	Facility Name:	Westwego Marine Terminal	
	c/o Theodore M. Haik III	Physical Location:	933 River Road	
	Agent for Service of Process			
	1017 East Dale Street	City, State, Zip:	Westwego, LA 70094	
	New Iberia, LA 70562-1040	Parish:	Jefferson	
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
<i>(check the applicable option)</i>				
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.			
_____	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-16-01067), 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-16-01067), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <i>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.</i></li> </ul>			
_____	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-PP-16-01067) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
<b>CERTIFICATION STATEMENT</b>				
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
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>				
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Mark E. Brown				



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

March 29, 2018



CERTIFIED MAIL (7014 0510 0001 7431 7465)  
RETURN RECEIPT REQUESTED

**CARGILL, INCORPORATED**  
c/o Theodore M. Haik III  
Haik, Minvielle & Grubbs, LLP  
Agent for Service of Process  
1017 East Dale Street  
New Iberia, LA 70560

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-17-00502  
AGENCY INTEREST NO. 14010**

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 **CARGILL, INCORPORATED (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 Mark E. Brown at (225) 219-3782.

Sincerely,

Celena J. Cage  
Administrator  
Enforcement Division

CJC/MEB/meb  
Alt ID No. 1340-00030  
Attachment

c: Cargill Incorporated  
Andreana Pruitt  
933 River Road  
Westwego, La 70094

**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE**

<p><b>IN THE MATTER OF</b></p> <p><b>CARGILL, INCORPORATED</b> <b>JEFFERSON PARISH</b> <b>ALT ID NO. 1340-00030</b></p> <p><b>PROCEEDINGS UNDER THE LOUISIANA</b> <b>ENVIRONMENTAL QUALITY ACT,</b> <b>La. R.S. 30:2001, ET SEQ.</b></p>	<p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p> <p>*</p>	<p><b>ENFORCEMENT TRACKING NO.</b></p> <p style="text-align: center;"><b>AE-CN-17-00502</b></p> <p><b>AGENCY INTEREST NO.</b></p> <p style="text-align: center;"><b>14010</b></p>
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**CONSOLIDATED**  
**COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **CARGILL, INCORPORATED (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 **WESTWEGO MARINE TERMINAL** (the facility), a grain storage and export facility, located at 933 River Road in Westwego, Jefferson Parish, Louisiana. The facility operates, or has operated, under the Small Source Air Permits listed in Table A:

**TABLE A**

Permit No.	Permit Issue Date
1340-00030-07	June 4, 2010
1340-00030-08	November 15, 2011
1340-00030-09	October 21, 2014
1340-00030-10	August 13, 2015

II.

On or about March 9, 2017, March 31, 2017, April 7, 2017, April 18, 2017, May 17, 2017, and November 17, 2017, the Department performed inspections of the Respondent's facility to determine the

degree of compliance with the Act, the Air Quality Regulations, and current permits. While the Department's investigation is not yet complete, the following violations were noted during the course of the inspection and subsequent file review conducted on March 5, 2018:

- A. During the course of routine area surveillance on March 9, 2017, intermittent dust from the conveyer belt transfer structure was crossing the highway and levee. The Respondent's representative stated workers were inside the gallery cleaning out material buildup and that material was supposed to be swept into the cleanout chute and into a bin below. Material was falling through gaps in the structure. The failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and Specific Requirement 21 of Air Permit No. 1340-00030-10, 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states the Respondent installed rubber strip extensions on the housekeeping spouts which previously went directly into the cleanup dumpsters, to control the dust until it is in the container.
- B. During the course of the March 31, 2017 inspection, dust was emitting from the barge loading area. Dust emissions were coming from the top of the conveyor belt assembly (the gallery) on the section that runs parallel to the river, near the second arm. The failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states the Respondent has purchased a water cannon to be installed on the dock to sweep dust emissions from the air as conditions require. An inspection conducted December 4, 2017, noted that a water cannon was in operation.
- C. During the course of the April 7, 2017 observation, dust clouds were being emitted from the top of the gallery, and grain was falling from the bottom of the gallery. The failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states that by June 6, 2017, the Respondent installed four (4) new belt scales to prevent overloading the transfer belt and to prevent loss of material from overloading the belt. The Respondent feels that an overloaded belt was the cause of material falling to the ground.



- D. On April 18, 2017, a noticeable cloud/haze of fine light brown dust was occurring in the southern area of the facility with two parked vehicles covered in fine dust, airborne corn husks were emitted approximately halfway between the northern and southern part of the facility, and in the southern area of the facility, a smaller cloud of dust was emitted from the bottom of the gallery. Each failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and of Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states that the Respondent replaced a baffle on Fling #2 (EQT0035) on May 4, 2017, and a dust pipe was repaired on May 8, 2017. Further, the Respondent, on May 2, 2017, replaced the sock on the loader spout on Fling #3 (EQT0036).
- E. On April 18, 2017, shells/husks were extensively falling from the conveyor belt near the levee road, falling onto the levee road, over the side of the levee road, onto the pond batture, and entering the open window of the inspector's vehicle. The failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and of Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states that by June 6, 2017, the Respondent installed four (4) new belt scales to prevent overloading the transfer belt and to prevent loss of material from overloading the belt. The Respondent feels that an overloaded belt was the cause of material falling to the ground.
- F. On May 17, 2017, shells/husks were extensively falling from the conveyor belt system near the levee road. The shells/husks were falling onto the levee road, onto the batture area below the levee, and entering the open window of the inspector's vehicle. The failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). Correspondence dated July 18, 2017 states that by June 6, 2017, the Respondent installed four (4) new belt scales to prevent overloading the transfer belt and to prevent loss of material from overloading the belt. The Respondent feels that an overloaded belt was the cause of material falling to the ground.
- G. On November 17, 2017, a large cloud of dust over the facility was visible from the Mississippi River bridge, at a distance of approximately 1.25 miles. Near the facility property, a cloud of dust was visible over the facility property, the facility riverside port, and the public roadway between the two. A cloud of dust was emitting from the Link Belt area (EQT 0028). Two separate emissions of dust occurred from the Buhler No. 2 area



(EQT 0032). A cloud of dust was emitting from the No. 2 Fling area (EQT 0035). The separate clouds of dust were impacting neighbors in the surrounding areas. A cloud of dust was emitting from the Dust Tank area (EQT 0042 & EQT 0043). Each failure to take all reasonable precautions to prevent particulate material from becoming airborne is a violation of Specific Requirement 17 and of Specific Requirement 21 of Air Permit No. 1340-00030-10, LAC 33:III.501.C.4, LAC 33:III.1305.A, La. R.S. 30:2057(A)(1) and 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.

#### II.

To take, within thirty days of receipt of this **COMPLIANCE ORDER**, any and all steps necessary to discontinue the emissions of dust/particulate matter addressed in Paragraph II.G of the Findings of Fact section of this **COMPLIANCE ORDER**.

#### III.

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: Mark E. Brown**  
**Re: Enforcement Tracking No. AE-CN-17-00502**  
**Agency Interest No. 14010**

**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-17-00502**  
**Agency Interest No. 14010**

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 violations 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 violations, 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 violations 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 violations described herein. Written comments may be filed regarding the violations 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 violations. If you would like to have such a meeting, please contact Mark E. Brown at (225) 219-3782 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 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 that 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violations described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" 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.

V.

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

Baton Rouge, Louisiana, this 29<sup>th</sup> day of March, 2018.



\_\_\_\_\_  
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: Mark E. Brown

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
 OFFICE OF ENVIRONMENTAL COMPLIANCE  
 ENFORCEMENT DIVISION  
 POST OFFICE BOX 4312  
 BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &  
 NOTICE OF POTENTIAL PENALTY  
 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-17-00502	Contact Name	Mark E. Brown
Agency Interest (AI) No.	14010	Contact Phone No.	(225) 219-3782
Alternate ID No.	1340-00030		
Respondent:	CARGILL, INCORPORATED	Facility Name:	Westwego Marine Terminal
	c/o Theodore M. Haik III, Haik, Minvielle & Grubbs, LLP	Physical Location:	933 River Road
	Agent for Service of Process		
	1017 East Dale Street New Iberia, LA 70560	City, State, Zip:	Westwego, LA 70094
		Parish:	Jefferson

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	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.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-CN-17-00502, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-CN-17-00502, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• 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</li> </ul>
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-CN-17-00502, 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 statements 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
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>		
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Mark E. Brown		