

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PURINA MILLS, LLC

AI # 42936

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

* Settlement Tracking No.
* SA-AE-21-0048
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* Enforcement Tracking No.
* AE-CN-11-00465
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SETTLEMENT

The following Settlement is hereby agreed to between Purina Mills, 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 an animal feed mill located in Arcola, Tangipahoa Parish, Louisiana (“the Facility”).

II

On August 29, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-11-00465 (Exhibit 1).

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 NINE THOUSAND AND NO/100 DOLLARS (\$9,000.00), of which Six Hundred Nine and 17/100 Dollars (\$609.17) 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 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 Tangipahoa 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 thirty (30) 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.

PURINA MILLS, LLC

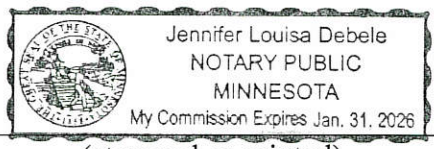
BY: Katherine Lichty
(Signature)

Katherine Lichty
(Printed)

TITLE: Secretary

THUS DONE AND SIGNED in duplicate original before me this 22nd day of November, 20 21, at 4:02 pm.

Jennifer Debele
NOTARY PUBLIC (ID # 202890956)



(stamped or printed)

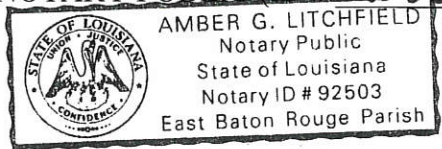
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: Celena J. Culp
Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of March, 20 22, at Baton Rouge, Louisiana.

[Signature]

NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturrealde, Assistant Secretary



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

August 29, 2011

CERTIFIED MAIL (7005 0390 0006 1028 2036)
RETURN RECEIPT REQUESTED

PURINA MILLS, LLC
c/o C T Corporation System
Agent for Service of Process
5615 Corporate Boulevard, Suite 400B
Baton Rouge, Louisiana 70808

RE: **CONSOLIDATED COMPLIANCE ORDER**
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-11-00465
AGENCY INTEREST NO. 42936

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 **PURINA MILLS, LLC (RESPONDENT)** for the violation described therein.

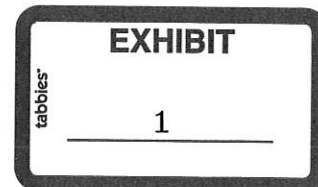
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Amanda DeRouen Polito at 225.219.3093 or amanda.polito@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/APDP
Alt ID No. 2840-00231
Attachment



c: Purina Mills, LLC
c/o Bob Garland, Product Manager
Post Office Box 830
Roseland, Louisiana 70456

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

PURINA MILLS, LLC
TANGIPAHOA PARISH
ALT ID NO. 2840-00231

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

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ENFORCEMENT TRACKING NO.

AE-CN-11-00465

AGENCY INTEREST NO.

42936

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **PURINA MILLS, 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 Land O'Lakes Purina Feed, LLC, an animal feed mill located at 64080 Highway 51 in Arcola, Tangipahoa Parish, Louisiana. The facility operates under Small Source Air Permit Number 2840-00231-02, issued on July 14, 1994.

II.

On or about August 23, 2011, the Department conducted an inspection and subsequent file review of the facility that revealed the following violation:

During the inspection, the facility representative informed the inspector that production has exceeded the permitted annual production rate of 85,000 tons per year (TPY), as stipulated in the permit, since at least 1998 when the annual production rate reached over 100,000 TPY. Annual emission limits established in the permit were calculated based on a production rate

of 85,000 TPY submitted to the Department. Each exceedance of the annual production rate is a violation of Small Source Air Permit Number 2840-00231-02, LAC 33:III.501.C.4, and La R.S. 30:2057(A)(2). The Respondent submitted a permit modification application to the Department on or about May 18, 2011, to reconcile the discrepancy.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To submit, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, emission calculations based on actual production rates for every year that the facility exceeded the permitted annual production rate of 85,000 TPY. These calculations shall be submitted to the Enforcement Division for review.

II.

To address the violation identified in Findings of Fact paragraph II, the Respondent shall comply with the following:

A. The Respondent shall comply with the following interim limitation(s):

| POLLUTANT | PROPOSED EMISSION RATE (tons/year) |
|-----------------|---------------------------------------|
| PM 10 | 11.64 |
| SO _x | 0.007 |
| NO _x | 1.087 |
| VOC | 0.060 |
| CO | 0.91 |

All emission limitations, monitoring requirements, and permit conditions of Small Source Air Permit Number 2840-00231-02 shall remain in full force and effect and shall remain enforceable. The interim limitations shall remain in effect until the Department addresses these excess emissions in a new or modified air permit or unless notified by the Department in writing.

B. The Respondent shall at all times properly operate and maintain all facilities and systems of control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the interim limitations.

- C. The Respondent shall report permit limit exceedances of any aforementioned pollutants, as set forth in Small Source Air Permit Number 2840-00231-02, in the appropriate deviation report(s).
- D. If the Respondent does not choose to emit any air contaminant in the State of Louisiana from its facility, the Respondent shall, within thirty (30) days after receipt of the **COMPLIANCE ORDER**, provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to the air.

III.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with the Act, the Air Quality Regulations, and Small Source Air Permit Number 2840-00231-02.

VI.

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 violation 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: Amanda DeRouen Polito
Re: Enforcement Tracking No. AE-CN-11-00465
Agency Interest No. 42936

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-11-00465
Agency Interest No. 42936

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 Amanda DeRouen Polito at 225.219.3093 or amanda.polito@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

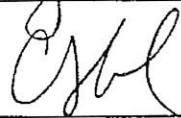
III.

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 29 day of August, 2011.



Cheryl Sonnier Nolan
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: Amanda DeRouen Polito