



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

STATE OF INDIANA)	SS: BEFORE THE INDIANA DEPARTMENT OF
)	
COUNTY OF MARION)	ENVIRONMENTAL MANAGEMENT
COMMISSIONER OF THE DEPARTMENT)	
OF ENVIRONMENTAL MANAGEMENT,)	
)	
Complainant,)	
)	
v.)	Case No. 2021-28102-A
)	
PRIMARY PRODUCTS INGREDIENTS)	
AMERICAS LLC,)	
)	
Respondent.)	

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to Indiana Code (“IC”) 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent’s entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of Environmental Management (“IDEM”), a department of the State of Indiana created by IC 13-13-1-1.
2. Respondent is Primary Products Ingredients Americas LLC (“Respondent”), which owns and operates the stationary corn wet milling plant with Plant ID No. 157-00033, located at 3300 US 52 South in Lafayette, Tippecanoe County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation (“NOV”) via Certified Mail to:

Primary Products Ingredients
Americas LLC
Attn: Brian Smith, Manager
5450 Prairie Stone Parkway
Hoffman Estates, IL 60192

CT Corporation System,
Registered Agent
334 North Senate Avenue
Indianapolis, IN 46204

5. During an investigation including inspections on August 12 and 16, 2021 conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Part 70 Permit No. 157-40694-00033 ("Permit") Condition D.2.5, Respondent shall monitor and record the scrubber recirculation rate of scrubber LAC-70 at least once per day when the associated process is in operation. If the rate is below the normal minimum as established in the permit or determined during the latest compliant stack test, reasonable response steps shall be taken.

Respondent operated scrubber LAC-70 below the recirculation rate established during the November 12, 2019 stack test without conducting or recording response steps on multiple occasions between the stack test date and August 12, 2021, in violation of Permit Condition D.2.5.

- b. Pursuant to Permit Condition D.3.17, Respondent shall monitor and record the scrubber recirculation rate of the gaseous and particulate sections of scrubber LAC-71 at least once per hour when the associated process is in operation. If the rate is below the normal minimum as established in the permit or determined during the latest compliant stack test, reasonable response steps shall be taken.

Respondent operated the gaseous and particulate sections of scrubber LAC-71 below the recirculation rate established during the November 12, 2019 stack test without conducting or recording response steps on multiple occasions between the stack test date and August 12, 2021, in violation of Permit Condition D.3.17.

- c. Pursuant to Permit Condition D.3.17, Respondent shall monitor and record the scrubber recirculation rate of the gaseous and particulate sections of scrubbers LAC-67 and LAC-69 at least once per hour when the associated process is in operation. If the rate is below the normal minimum as established in the permit or determined during the latest compliant stack test, reasonable response steps shall be taken.

Respondent operated the gaseous and particulate sections of scrubbers LAC-67 and LAC-69 below the recirculation rate established during the April 13, 2021 stack test without conducting or recording response steps on multiple occasions between the stack test date and August 12, 2021, in violation of Permit Condition D.3.17.

- d. Pursuant to Permit Condition D.5.13, Respondent shall monitor and record the scrubber recirculation rate of scrubber LAC-28B at least once per day when the associated process is in operation. If the rate is below the normal minimum as established in the permit or determined during the latest compliant stack test, reasonable response steps shall be taken.

Respondent operated scrubber LAC-28B below the recirculation rate established during the November 14, 2019 stack test without conducting or recording response steps on multiple occasions between the stack test date and August 12, 2021, in violation of Permit Condition D.5.13.

- e. Pursuant to Permit Condition D.3.20, Respondent shall operate the Regenerative Thermal Oxidizers (RTO's) RTO-600, RTO-601, and RTO 602 such that the 3-hour average temperature is at or above the 3-hour average determined in the latest valid stack test. If the 3-hour average temperature is below the temperature determined during the latest compliant stack test, reasonable response steps shall be taken.

Respondent operated RTO-600, RTO-601, and RTO 602, below the 3-hour average determined during the April 13, 2021 stack test without conducting or recording response steps on multiple occasions between the stack test date and August 12, 2021, in violation of Permit Condition D.3.20.

- f. Pursuant to Permit Condition D.3.13, Respondent shall conduct stack testing on scrubbers LAC-67 and LAC-69 at least once every five (5) years from the date of the most recent valid stack test.

Respondent conducted the stack testing for scrubbers LAC-67 and LAC-69 on June 28, 2021, which was after the due date of April 20, 2021, in violation of Permit Condition D.3.13.

6. Respondent updated the scrubber flow rates and the RTO minimum operating temperatures after the August 12, 2021 inspection to reflect the most recent stack tests.
7. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the settlement reached, Respondent acknowledges notice of this right and waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.

2. Respondent shall comply with the permit conditions listed in the findings of fact above unless superseded by a renewal or modification.
3. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Lisa Ward, Enforcement Case Manager
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
LHayhurs@idem.in.gov

4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Twenty-Nine Thousand Dollars (\$29,000.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date."
5. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204

6. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 5, above.
7. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
8. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
9. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.

10. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
11. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
12. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
13. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
14. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the violation specified in the NOV.
15. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the U.S. EPA or any other agency or entity.
16. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL
RECOMMENDATION:
Department of Environmental
Management

By: David P. McIver

David P. McIver
Section Chief
Enforcement Section
Office of Air Quality

Date: June 7, 2024

RESPONDENT:

Primary Products Ingredients Americas
LLC

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT THIS _____ DAY OF
_____, 20____.

For the Commissioner:

Matthew Stuckey
Assistant Commissioner
Office of Air Quality
Indiana Department of Environmental
Management