

BEFORE THE DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT

IN THE MATTER OF

ARCHER-DANIELS-MIDLAND
COMPANY
FID: 9169

Respondent.

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Case No. 3650

CONSENT ORDER

I. INTRODUCTION

1. The Nebraska Department of Water, Energy, and Environment (“Department”) and Archer-Daniels-Midland Company (“Respondent”), voluntarily enter into this Consent Order. The Consent Order establishes a Compliance Schedule for Respondent to comply with the Nebraska Environmental Protection Act (“NEPA”), Neb. Rev. Stat. §§ 81-1501 to 81-1532, and Title 129 of the Nebraska Administrative Code (“NAC”).

2. The Department and Respondent agree that settlement of this matter is in the public interest to ensure compliance with state laws, rules, and regulations, adopted and issued to protect the environment.

II. JURISDICTION

3. The Department is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of the NEPA and Title 129.

4. Pursuant to 129 NAC 13-002.60, Title 40, Part 63, Subpart GGGG, of the Code of Federal Regulations (“C.F.R.”), as it existed on July 1, 2020, is incorporated by reference into Title 129.

5. In signing this Consent Order, Respondent agrees to undertake all actions required by this Consent Order. Respondent agrees not to contest the jurisdictional allegations referenced herein in any action to enforce this Consent Order. Respondent neither admits nor denies the remaining allegations in this Consent Order. Respondent waives its rights to further hearing as provided in Neb. Rev. Stat. § 81-1507 and the Administrative Procedure Act, Neb. Rev. Stat. § 84-901 *et seq.*

III. PARTIES

6. The parties to this Consent Order are the Department and Respondent, the owner and operator of a soybean processing plant, located at or about 130 N. Broad St., Fremont, NE 68025

7. This Consent Order is binding on the Department, Respondent, and any successors and assigns of the parties.

8. Respondent shall ensure that all contractors hired to perform work required by this Consent Order are informed of applicable requirements.

9. The Respondent is a “person,” as defined in Neb. Rev. Stat. § 81-1502(10).

IV. FINDINGS OF FACT

10. Respondent’s soybean processing plant utilizes a “vegetable oil production process,” as defined in 40 C.F.R. § 63.2872.

11. As part of this process, Respondent makes use of the extraction solvent hexane, a hazardous air pollutant subject to the National Emission Standards for Hazardous Air Pollutants (“NESHAP”). 129 NAC App. I; *see also* Clean Air Act, § 112(b)(1), 42 U.S.C. § 7412(b)(1); 40 C.F.R. §§ 63.1(a)(2), 63.2872.

12. Throughout the vegetable oil production process, a portion of the hexane solvent is lost.

13. On or about September 14, 2022, the Department issued to Respondent Air Quality Class I Operating Permit Number OP22R1-010 (“Permit”).

14. The NEPA and associated regulations require Respondent to comply with all requirements of the Permit and prohibit the violation of the same. Neb. Rev. Stat. § 81-1506(4)(b); 129 NAC 6-003.06A.

15. The NEPA further makes it unlawful to violate any emission limit or air quality standard the Environmental Quality Council has established. Neb. Rev. Stat. § 81-1506(4)(c).

16. The terms and conditions of the Permit prohibit the twelve-month rolling hexane solvent loss ratio from exceeding 0.165 gallons of solvent per ton of soybeans processed. Permit, § III(B)(3)(b).

FIRST CAUSE OF ACTION

17. As reflected in the following table, from in or about December 2022 to the present, Respondent violated a term and condition of an air pollution permit by exceeding the rolling 12-month hexane solvent loss ratio limit of 0.165 gallons per ton, all in violation of Neb. Rev. Stat. § 81-1506(4)(b).

12-Month Rolling Hexane Solvent Loss Ratio Violations

Year	Month	Solvent Loss Ratio
2022	December	0.168
2023	January	0.171
2023	February	0.173
2023	March	0.177
2023	April	0.189
2023	May	0.193
2023	June	0.195
2023	July	0.199
2023	August	0.208
2023	September	0.202
2023	October	0.206
2023	November	0.228
2023	December	0.219
2024	January	0.213
2024	February	0.211
2024	March	0.207
2024	April	0.198
2024	May	0.204
2024	June	0.204
2024	July	0.202
2024	August	0.193
2024	September	0.196
2024	October	0.199
2024	November	0.184
2024	December	0.188
2025	January	0.194
2025	February	0.196
2025	March	0.197
2025	April	0.204
2025	May	0.199
2025	June	0.197
2025	July	0.193
2025	August	0.192
2025	September	0.189

V. COMPLIANCE SCHEDULE

18. Respondent agrees to:

- a.** No later than 15 days after the end of a month for which the 12-month rolling hexane solvent loss ratio exceeded 0.165 gallons per ton:
 - i.** Conduct leak-detection monitoring utilizing a forward looking infrared (“FLIR”) camera;
 - ii.** Document the results of such monitoring;
 - iii.** If any visible leak is detected, provide the Department a written notice containing:
 - A.** A description of the leak;
 - B.** The steps Respondent has taken or will take to fix the leak; and
 - C.** The date by which the leak will be fixed;
 - iv.** Respondent shall not be considered in violation of ¶¶ 18(a)(i)–(iii) if:
 - A.** Respondent is prevented from timely conducting leak-detection monitoring due to a mechanical issue with the FLIR camera; and
 - B.** Respondent provides to the Department no later than the 15-day deadline established in ¶ 18(a) a written notice of such mechanical issues;
- b.** No later than 30 days after the effective date of this Consent Order, submit to the Department a signed writing containing:
 - i.** A detailed description of each source of material hexane loss; and
 - ii.** A detailed description of actions taken or to be taken at each source identified pursuant to ¶ 18(b)(i) to reduce hexane loss;

- c. No later than 90 days after the effective date of this Consent Order, submit to the Department a signed writing attesting that actions have been taken at each source identified in ¶ 18(b)(i) to reduce hexane loss; and
- d. No later than September 30, 2026, achieve a 12-month rolling hexane solvent loss ratio limit of 0.165 gallons per ton.

VI. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

19. Respondent agrees to perform all actions required in this Consent Order in accordance with all applicable local, state, and federal laws, regulations, and permit.

VII. RESERVATION OF RIGHTS

20. Nothing in this Consent Order shall be construed to limit the power and authority of the Department to take or order any action necessary to protect the public health, the public welfare, or the environment or to enforce any provision of the NEPA or any rules, regulations, orders, or permits, issued pursuant to the NEPA. The Department reserves the right to pursue any other remedies to which it is entitled for violations of this Consent Order or the underlying violations alleged herein, including penalties or injunctive relief.

VIII. NEGATION OF AGENCY RELATIONSHIP

21. Nothing contained in this Consent Order shall be construed to create either expressly or by implication, the relationship of agency between the Department and the Respondent.

IX. AMENDMENTS

A. IN GENERAL

22. The terms of this Consent Order may be amended upon the mutual written agreement of the Department and the Respondent, with the exception that the compliance timeframe set forth in ¶ 18(d) may only be modified to December 31, 2026 at the discretion of the Department unless otherwise provided for in the Force Majeure provisions of this Consent Order.

B. FORCE MAJEURE

23. Paragraph 18(d) of this Consent Order may be amended if the Director finds that Respondent has experienced a *force majeure* that prevents Respondent from timely achieving compliance with ¶ 18(d).

24. To request a *force-majeure* amendment pursuant to this subpart B, Respondent shall, no later than five days after the *force majeure*, submit to the person identified in ¶ 27 a written notice (“*force-majeure* notice”) containing:

- a. The date of the *force majeure*;
- b. A description of the *force majeure*;
- c. Any relevant documentation Respondent believes substantiates the occurrence of a *force majeure*;
- d. A citation to the portion of ¶ 26 that forms the basis for seeking a *force-majeure* amendment;
- e. A description of the actions Respondent has taken or will take to mitigate operational disruptions attributable to the *force majeure*; and

- f. A new date certain that Respondent will, in light of the *force majeure*, achieve a 12-month rolling hexane loss ratio of 0.165 gallons per ton.

25. Upon receipt of a *force-majeure* notice, the Director will evaluate the information contained therein and determine whether Respondent is entitled to a *force-majeure* amendment. The Director will notify Respondent, through Respondent's counsel, of the Director's determination in writing.

26. As used in this subpart B, "*force majeure*" means:

- a. A loss of primary and secondary power;
- b. An act of God;
- c. An act of war; or
- d. Any other event that is:
 - i. Unforeseeable;
 - ii. Beyond the reasonable control of Respondent;
 - iii. The proximate cause or will be the proximate cause of Respondent failing to comply with the deadline established in ¶ 18(d); and
 - iv. Not attributable to the fault or negligence of Respondent.

X. SUBMISSIONS

27. Submissions made pursuant to this Consent Order shall be made to Greg Lang, Supervisor, Air Compliance Section, and may be sent via either:

- a. Electronic mail to: greg.lang@nebraska.gov; or

- b. Postal mail to: Greg Lang, Supervisor, Air Compliance Section, Nebraska
Department of Water, Energy, and Environment, 245 Fallbrook Blvd., Ste. 100,
Lincoln, NE 68521.

XI. EFFECTIVE DATE

28. This Consent Order shall become effective on the date the Director of the Department or the Director's designee signs this Consent Order.

XII. TERMINATION

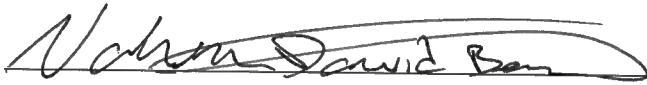
29. This Consent Order shall terminate when Respondent is in compliance with the terms of the Compliance Schedule, except that any resolution and settlement of civil liability for the matters set forth in this Consent Order shall survive termination. Respondent shall provide the Department with notice of compliance with the Compliance Schedule and, within 90 days of the Department determining that the terms of the Compliance Schedule have been met, the Department will notify Respondent that the present administrative case is closed for all matters that are the subject matter of this Consent Order through termination .

XIII. SEVERABILITY

30. If any provision or authority of this Consent Order or the application of this Agreement to any party or circumstances is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Agreement shall remain in force and shall not be affected thereby.

XIV. SIGNATURES

31. For Respondent: The undersigned certifies that the undersigned possesses actual authority to enter into this Consent Order on behalf of Respondent and to bind Respondent.

Signature: 
Title: Plant Manager
Date: 10/21/2025

32. For the Department:

IT IS SO ORDERED and agreed this 22 day of October, 2025.

Jesse Bradley, Director,
Nebraska Department of Water,
Energy, and Environment.