

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

JOTUN PAINTS, INC.

AI # 14232

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

\* Settlement Tracking No.  
\* SA-AE-19-0063  
\*  
\* Enforcement Tracking No.  
\* AE-PP-16-00961  
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SETTLEMENT

The following Settlement is hereby agreed to between Jotun Paints, 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 a paint manufacturing facility located in Belle Chasse, Plaquemines Parish, Louisiana (“the Facility”).

II

On December 16, 2016, the Department issued to Respondent a Notice of Potential Penalty Enforcement No. AE-PP-16-00961 (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 THIRTEEN THOUSAND AND NO/100 DOLLARS (\$13,000.00), of which Six Hundred Forty Three and 18/100 Dollars (\$643.18) 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 permit record(s), 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 Plaquemines 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.

JOTUN PAINTS, INC.

BY: Robin Colton  
(Signature)

Robin Colton  
(Printed)

TITLE: SEC/TREAS.

THUS DONE AND SIGNED in duplicate original before me this 3rd day of December, 20 19, at Belle Chasse, LA.

THIS DOCUMENT WAS NOT PREPARED OR EXAMINED BY THE NOTARY NAMED ABOVE AND THE NOTARY ATTESTS ONLY TO THE SIGNATURES OF THE PARTIES HEREIN

[Signature]  
NOTARY PUBLIC (ID # \_\_\_\_\_)

**COREY E. DUNBAR**  
Notary Public, Parish of Orleans, State of Louisiana  
My Commission is issued for life.  
Bar No. 30144  
(stamped or printed)

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

BY: [Signature]  
Loures Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14<sup>th</sup> day of Feb, 20 20, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
Loures Iturralde, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

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

December 16, 2016

CERTIFIED MAIL (7014 0510 0001 7431 7168)  
RETURN RECEIPT REQUESTED

**JOTUN PAINTS, INC.**  
c/o Goerge Pivach, II  
Agent for Service of Process  
8311 Louisiana Highway 23, Suite 104  
Belle Chasse, LA 70037

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-PP-16-00961  
AGENCY INTEREST NO. 14232**

Dear Sir:

On or about October 18, 2016, a file review of **JOTUN PAINTS, INC BELLE CHASSE FACILITY (THE FACILITY)**, a paint manufacturing facility, owned and/or operated by **JOTUN PAINTS, INC. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 9203 Louisiana Highway 23 in Belle Chasse, Plaquemines Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 2244-00010-01 issued on March 2, 2001. On or about June 20, 2016, the Respondent submitted an interim limit request and on August 31, 2016, rescinded the interim limit request. A permit modification application was submitted to the Louisiana Department of Environmental Quality (the Department) on August 12, 2016.

While the investigation by the Department is not yet complete, the following violations were noted during the course of the file review:

- A. According to General Condition XI Written Report dated June 28, 2016, and electronic correspondence dated October 19, 2016, the Respondent reported that the following emission sources (Table 1) in the current manufacturing area and Multi Color Industry (MCI) tinting room were constructed in 2012 without prior authorization:

Table 1

Emission Points	Equipment Number	Construction/Installation Date
R&D Mixing Room Snorkels	EQT0001	2012
A 376 hp Diesel Firewater Pump Engine	EQT0002	2012
MCI Stack Vent	RLP0004	2012
A 145 hp Diesel Emergency Generator Engine	EQT0004	2012

The failure to submit a timely and complete permit application to the Department prior to any construction, reconstruction, or modification is a violation of LAC 33.III.501.C.1 and La R.S. 30:2057(A)(2).

- B. According to General Condition XI Written Report dated June 28, 2016, the Respondent reported that the emission sources mentioned in Table 1 were constructed in 2012 prior to submitting a permit modification application. The construction, modification or operation of each emission source until a permit has been issued by the Department is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). A permit modification application was submitted on August 12, 2016, and requests these emission sources be added.
- C. The Respondent stated in electronic correspondence dated October 31, 2016, that R&D Hood Vent (RLP0003) and R&D Spray Booth (EQT0003) installed prior to 2012, qualified as insignificant activities in accordance with LAC 33.III.501.B.7. These sources were not listed in the current Permit No. 2244-00010-01 as insignificant activities and a case-by-case insignificant activity request was not submitted. The unauthorized operation of each source is a violation of LAC 33.III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The Respondent included R&D Hood Vent and R&D Spray Booth as insignificant activities in the permit modification application submitted on August 12, 2016.
- D. According to electronic correspondence dated October 3, 2016, the Respondent stated that the facility wide xylene emissions for 2015 were 8.40 tons per year, which exceeded the current Air Permit No. 2244-00010-01 limit of 3.66 tons per year. The exceedance of a permitted emission limit is a violation of Air Permit No. 2244-00010-01, LAC 33:III.501.C.4, La R.S. 30:2057(A)(1) and 30:2057(A)(2). The permit modification application submitted on August 12, 2016, proposed a facility wide xylene emission of 9.82 tons per year.

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.

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(s). If you would like to have such a meeting, please contact Pascal Ojong, Environmental Scientist, at (225) 219-4468 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(s) 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.

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 Iturraide  
Assistant Secretary  
Office of Environmental Compliance

LI/PON/pon  
Alt ID No. 2244-00010

c: Jotun Paints, Inc.  
9203 LA Highway 23  
Belle Chasse, LA 70037

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-16-00961	Contact Name	Pascal Ojong
Agency Interest (AI) No.	14232	Contact Phone No.	225 219 4468
Alternate ID No.	2244-00010		
Respondent:	Jotun Paints, Inc.	Facility Name:	Jotun Paints, Inc.
	c/o Goerge Pivach, II	Physical Location:	9203 LA Hwy 23,
	Agent for Service of Process		
	8311 LA Hwy 23 Street 104	City, State, Zip:	Belle Chasse, LA 70037
	Belle Chasse, LA 70037	Parish:	Plaquemines

**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 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (AE-PP-16-00961)**, 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-16-00961)**, 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-16-00961)** 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: Pascal Ojong