

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ENTERGY LOUISIANA, LLC

AI # 85793

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

\* Settlement Tracking No.  
\* SA-AE-22-0053  
\*  
\* Enforcement Tracking No.  
\* AE-PP-18-00440  
\*  
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\*  
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SETTLEMENT

The following Settlement is hereby agreed to between Entergy Louisiana, 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 electrical generating facility located in Sterlington, Ouachita Parish, Louisiana (“the Facility”).

II

On April 8, 2020, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-18-00440 (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 FOURTEEN THOUSAND AND NO/100 DOLLARS (\$14,000.00), of which One Thousand Eight Hundred Eighty-Seven and 25/100 Dollars (\$1,887.25) 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 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 Ouachita 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.

ENTERGY LOUISIANA, LLC

BY: [Signature]  
(Signature)

Richard Corvera  
(Printed)

TITLE: Manager - LES  
Entergy Services, LLC

THUS DONE AND SIGNED in duplicate original before me this 13<sup>th</sup> day of December, 20 22, at New Orleans, LA.

[Signature]  
NOTARY PUBLIC (ID # 26513)

**John Barthold Shortess**  
**Bar # 26513**  
**Notary Public, State of Louisiana**  
**My Commission is for Life.**

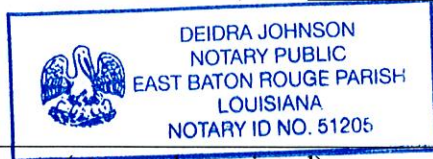
(stamped or printed)

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

BY: [Signature]  
Celena J. Cage, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 6th day of March, 20 23, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 51205)



(stamped or printed)

Approved: [Signature]  
Celena J. Cage, Assistant Secretary





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

**NOTICE OF POTENTIAL PENALTY**

<b>Enforcement Tracking No.</b>	AE-PP-18-00440	<b>Certified Mail No.</b>	7017 0530 0000 5978 5410
<b>Agency Interest (AI) No.</b>	85793	<b>Contact Name</b>	Mark E. Brown
<b>Alternate ID No.</b>	2160-00112	<b>Contact Phone No.</b>	(225) 219-3782
<b>Respondent:</b>	<b>Entergy Louisiana, LLC</b>	<b>Facility Name:</b>	Perryville Generating Station
	c/o John A. Braymer	<b>Physical Location:</b>	11140 Louisiana Highway 165 North
	Agent for Service of Process		
	639 Loyola Avenue, 26 <sup>th</sup> Floor	<b>City, State, Zip:</b>	Perryville, LA 71280
New Orleans, LA 70113	<b>Parish:</b>	Ouachita	

This **NOTICE OF POTENTIAL PENALTY** is issued 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 30:2050.3(B).

**FINDINGS OF FACT**

*An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.*

<b>I.</b>	The Respondent owns and/or operates a fossil-fueled electric generation facility located 11140 Louisiana Highway 165 North in Perryville, Ouachita Parish, Louisiana. The facility currently operates under Title V Air Permit No. 2160-00112-V6, issued on June 9, 2016.	
	<b>Date of Violation</b>	<b>Description of Violation</b>
<b>II.</b>	Inspection(s) 9/19/17 File review 3/26/20	Thickness inspections were not conducted prior to April 2014 on ammonia piping, the east vaporizer NB11036, or the west vaporizer NB11035 as required by API 510 and API 570. The failure to conduct thickness inspections every ten (10) years on vaporizers and every (5) five years on class one ammonia piping is a violation of 40 CFR 68.73(d)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated July 27, 2018, the Respondent stated that inspections of the tank, piping and vaporizer sections were conducted on December 13, 2017 through December 15, 2017. The results of the testing were submitted electronically to the Department on March 23, 2018.
<b>III.</b>	Inspection(s) 9/19/17 File review 3/26/20	The Respondent failed to ensure inspections follow recognized and generally accepted good engineering practices. Specifically, inspections conducted in April 2014 on ammonia piping and the east and west vaporizers did not have calculations for long or short term corrosion rates, remaining life, or minimum thickness as required by API 510 and API 570. In addition, the February 2010 inspection report for Tk-X3 notes that the nominal (initial) thickness is 0.500 inches for the heads which contradicts the U1, which states that 0.500 inches is the minimal thickness for the heads. This is a violation of 40 CFR 68.73(d)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated July 27, 2018, the Respondent stated that the calculations were completed following inspections of the tank, piping and vaporizer sections conducted December 13, 2017 through December 15, 2017. The calculations were submitted electronically to the Department on March 23, 2018.
<b>IV.</b>	Inspection(s) 9/19/17 File review 3/26/20	The Respondent failed to assure that operating procedures were modified prior to any changes. Specifically, during the inspection, the inspector was unable to verify that Management of Change (MOC) 9 was written prior to operator training on February 19, 2012, and eventual use on May 31, 2012. In addition, the operating procedure related to MOC-11 was not written until April 1, 2014, which is approximately two (2) years after the change which was put into use on May 31, 2012. Each failure to assure operating procedures were modified prior to a change is a violation of 40 CFR 68.75(b)(3), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated July 27, 2018, the Respondent stated that a newly updated MOC was issued on March 14, 2018. Additionally, the Respondent reportedly revised the MOC/Pre-startup Safety Review process to ensure operating procedures are updated and training is conducted prior to the startup of the ammonia process following a change.





V.	Inspection(s) 9/19/17 File review 3/26/20	At the time of the inspection, MOC 17 did not have the required signature giving authorization to proceed with a change. This is a violation of 40 CFR 68.75(b)(5), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated July 27, 2018, the Respondent stated that the process was revised to make sure that multiple site personnel are involved in the review and approval of proposed changes. The revised process was submitted electronically to the Department on March 23, 2018.
VI.	Inspection(s) 9/19/17 File review 3/26/20	The Respondent failed to periodically evaluate the performance of contractors. The failure to evaluate contractor performance is a violation of 40 CFR 68.87(b)(5), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated July 27, 2018, the Respondent stated that contractor/vendor/suppliers are now evaluated by a third party contractor before acquiring a Safe Work Permit. The initial version of the Safe Work Permit procedure was put into use in June 2017, and was approved by the Department in December 2017.
VII.	Inspection(s) 9/19/17 File review 3/26/20	The Respondent failed to train affected employees on operating procedures prior to startup of a process. MOC 9 form indicated that all shifts were informed of the change and trained in updated operating procedures on February 14, 2012. Electronic correspondence to the Respondent, from the Department, dated February 14, 2012 stated that the proposed procedures were in the process of being developed. However, during the inspection, the relevant operating procedure and training documentation were not available for review. The change was in use on May 31, 2012. MOC 11 form states that affected personnel were trained on updated operating procedures on May 4, 2014, two (2) years after the change was in use on May 31, 2012. MOC 17 states that affected personnel were trained on updated operating procedures on November 30, 2015, several weeks after the change was in use on November 5, 2015. Each failure to train affected employees on operating procedures prior to startup of a process is a violation of 40 CFR 68.75(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
VIII.	Inspection(s) 9/19/17 File review 3/26/20	The Respondent failed to document that contractors were informed of the known toxic release hazards related to the contractors' work and that contractors were explained the provisions of the emergency response program. The failure to document that contractors were informed is a violation of 40 CFR 68.200, which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The failure to inform contractors of the provisions of the emergency response program is a violation of 40 CFR 68.210(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In electronic correspondence dated April 17, 2018, the Respondent disclosed that Safety Orientation Checklists and Anhydrous Ammonia Awareness documentation procedures are now in effect for contractors. In electronic correspondence dated March 30, 2020, the inspector disclosed that Safe Work Permits have been provided by the Respondent and are what are needed to ensure the facility is periodically evaluating contractors; the Area of Concern has been addressed.

**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 Mark E. Brown at (225) 219-3782 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
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 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 <b>NOTICE OF POTENTIAL PENALTY</b> . 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.
IV.	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.

V. 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.

**CONTACTS AND SUBMITTAL OF INFORMATION**

<i>Enforcement Division:</i>	<i>Physical Address (if hand delivered):</i>
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: <b>Mark E. Brown</b>	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

**HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY**

To expedite closure of the **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 Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- 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.

If you have questions or need more information, you may contact Mark E. Brown at (225) 219-3782 or mark.brown@la.gov



Lourdes Murralde  
Assistant Secretary  
Office of Environmental Compliance

Date: 4-8-2020

cc: Entergy Louisiana, LLC  
Katherine Brown  
11140 Louisiana Highway 165 N.  
Sterlington, LA 71280

Attachment

- Request to Settle



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-18-00440	Contact Name	Mark E. Brown
Agency Interest (AI) No.	85793	Contact Phone No.	(225) 219-3782
Alternate ID No.	2160-00112		
Respondent:	Entergy Louisiana, LLC	Facility Name:	Perryville Generating Station
	c/o John A. Braymer	Physical Location:	11140 Louisiana Highway 165 North
	Agent for Service of Process		
	639 Loyola Avenue, 26 <sup>th</sup> Floor New Orleans, LA 70113	City, State, Zip:	Perryville, LA 71280
	Parish:	Ouachita	

**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 <b>NOTICE OF POTENTIAL PENALTY AE-PP-18-00440</b> , 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 <b>NOTICE OF POTENTIAL PENALTY AE-PP-18-00440</b> , 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>• <b>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-</b> 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 <b>NOTICE OF POTENTIAL PENALTY AE-PP-18-00440</b> , 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: Mark E. Brown

If you have questions or need more information, you may contact Mark E. Brown at (225) 219-3782, or [mark.brown@la.gov](mailto:mark.brown@la.gov)