

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

FRANK'S INTERNATIONAL, LLC

AI # 17208

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

\* Settlement Tracking No.  
\* SA-WE-21-0100  
\*  
\* Enforcement Tracking No.  
\* WE-CN-20-00336  
\*  
\*  
\*  
\*

SETTLEMENT

The following Settlement is hereby agreed to between Frank's International, 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 oil field service company located in Lafayette, Lafayette Parish, Louisiana ("the Facility").

II

On July 23, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-20-00336 (Exhibit 1).

In addition to the violations set forth in Exhibit 1, the following violations, discovered during a file review on June 29, 2021, are included within the scope of this settlement:

- A. Discharge of 12 gallons of hydraulic oil to the ground and waters of the state via a storm drain during an incident that occurred on January 28, 2021;
- B. Operation and maintenance deficiency related to an incident that occurred on

January 28, 2021, wherein hydraulic oil was discharged due to a loose fitting on the hydraulic line;

- C. Failure to sample for pH in July of 2020 for Outfall 001-A;
- D. Effluent limitation Exceedances ( $>2x$  the limit): Between July 1, 2020 and January 31, 2021, there were two (2) effluent limitation exceedances that were  $>2x$  the permit limit; and
- E. Effluent limitation exceedances ( $<2x$  the limit): Between July 1, 2020 and January 31, 2021, there were twelve (12) effluent limitation exceedances that were less than twice the permit limit.

### 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 TWENTY THOUSAND AND NO/100 DOLLARS (\$20,000.00), of which Nine Hundred Sixty-Nine and 67/100 Dollars (\$969.67) 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 Lafayette 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.

FRANK'S INTERNATIONAL, LLC

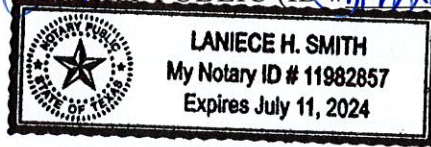
BY: Jordan La Raia  
(Signature)

Jordan La Raia  
(Printed)

TITLE: Secretary

THUS DONE AND SIGNED in duplicate original before me this 28th day of June, 20 22, at 2:45 pm

Laniece H. Smith  
NOTARY PUBLIC (ID # 11982857)



(stamped or printed)

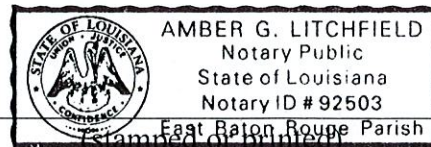
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Chuck Carr Brown, Ph.D., Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 14th day of November, 20 22, at Baton Rouge, Louisiana.

Amber G. Litchfield

NOTARY PUBLIC (ID # 92503)



Approved: Celena J. Cage  
Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

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

July 23, 2020

CERTIFIED MAIL (7019 0700 0000 0331 2926)  
RETURN RECEIPT REQUESTED

**FRANK'S INTERNATIONAL, LLC**  
c/o Corporation Service Company  
Agent for Service of Process  
501 Louisiana Avenue  
Baton Rouge, Louisiana 70802

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. WE-CN-20-00336  
AGENCY INTEREST NO. 17208**

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 **FRANK'S INTERNATIONAL, LLC (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations 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 Bernie Boyett at (225) 219-0783.

Sincerely,

Celena J. Cage  
Administrator  
Enforcement Division

CJC/BKB/bkb  
Alt ID No. LA0094242  
Attachments

c: e-copy-LDH/Office of Public Health





**STATE OF LOUISIANA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE**

|   |   |                                 |
|---|---|---------------------------------|
| <b>IN THE MATTER OF</b>                 | * |                                 |
|   | * |                                 |
| <b>FRANK'S INTERNATIONAL, LLC</b>       | * | <b>ENFORCEMENT TRACKING NO.</b> |
| <b>LAFAYETTE PARISH</b>                 | * |                                 |
| <b>ALT ID NO. LA0094242</b>             | * | <b>WE-CN-20-00336</b>           |
|   | * |                                 |
|   | * | <b>AGENCY INTEREST NO.</b>      |
|   | * |                                 |
| <b>PROCEEDINGS UNDER THE LOUISIANA</b>  | * | <b>17208</b>                    |
| <b>ENVIRONMENTAL QUALITY ACT,</b>       | * |                                 |
| <b>La. R.S. 30:2001, <u>ET SEQ.</u></b> | * |                                 |

**CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **FRANK'S INTERNATIONAL, 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) and 30:2050.2.

**FINDINGS OF FACT**

**I.**

The Respondent owns and/or operates an oil field service company located at 700 East Verot School Road in Lafayette, Lafayette Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0094242 on September 3, 2014, with an effective date of October 1, 2014, and an expiration date of September 30, 2019. The Respondent submitted an LPDES permit renewal application to the Department on or about March 20, 2019, and LPDES permit LA0094242 was administratively continued. The Department reissued LPDES permit LA0094242 on August 20, 2019, with an

effective date of September 1, 2019, and an expiration date of August 31, 2024. Under the terms and conditions of LPDES permit LA0094242, the Respondent is authorized to discharge equipment washwater, treated sanitary wastewater, and stormwater runoff into local drainage, thence into Coulee de Poche, thence into the Vermilion River, waters of the state.

## II.

An inspection conducted by the Department on or about February 26, 2020, and a subsequent file review conducted by the Department on or about May 14, 2020, revealed that the Respondent exceeded effluent limitations. These effluent limitation exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs) are summarized in the following table:

| MP End Date | Outfall | Parameter                            | Limit | DMR Value | Units     |
|-------------|---------|--------------------------------------|-------|-----------|-----------|
| 03/31/2017  | 001-Q   | pH --- INST MAX                      | 9     | 9.18      | SU        |
|             | 008-Q   | pH --- INST MAX                      | 9     | 9.71      | SU        |
| 06/30/2017  | 009-S   | Solids, total suspended --- DAILY MX | 45    | 47.2      | mg/L      |
| 09/30/2017  | 005-Q   | Solids, total suspended --- DAILY MX | 45    | 61.3      | mg/L      |
| 12/31/2017  | 001-Q   | Oil and grease --- DAILY MX          | 15    | 15.1      | mg/L      |
|             | 001-S   | BOD, 5-day, 20 deg. C --- DAILY MX   | 45    | 71        | mg/L      |
|             | 002-S   | Coliform, fecal general --- DAILY MX | 400   | 1300      | CFU/100mL |
|             | 009-S   | BOD, 5-day, 20 deg. C --- DAILY MX   | 45    | 72        | mg/L      |
| 06/30/2018  | 001-Q   | Oil and grease --- DAILY MX          | 15    | 29.9      | mg/L      |
|             | 001-S   | BOD, 5-day, 20 deg. C --- DAILY MX   | 45    | 65        | mg/L      |
|             |         | Coliform, fecal general --- DAILY MX | 400   | >2410     | k/100mL   |
|             | 007-S   | Coliform, fecal general --- DAILY MX | 400   | 1990      | CFU/100mL |
| 12/31/2018  | 002-S   | Coliform, fecal general --- DAILY MX | 400   | >2410     | CFU/100mL |
|             | 007-S   | Solids, total suspended --- DAILY MX | 45    | 149       | mg/L      |
|             | 009-S   | Coliform, fecal general --- DAILY MX | 400   | 19000     | CFU/100mL |
| 06/30/2019  | 009-S   | Solids, total suspended --- DAILY MX | 45    | 126       | mg/L      |
| 01/31/2020  | 001-A   | Solids, total suspended --- DAILY MX | 45    | 92.9      | mg/L      |
|             |         | Oil & Grease --- DAILY MX            | 15    | 26.7      | mg/L      |
| 03/31/2020  | 002-Q   | pH --- INST MIN                      | 6     | 5.94      | SU        |
|             |         | Solids, total suspended --- MO AVG   | 30    | 179       | mg/L      |
|             |         | Solids, total suspended --- DAILY MX | 45    | 179       | mg/L      |
|             |         | Coliform, fecal general --- MOAV GEO | 200   | >2410     | CFU/100mL |
|             |         | Coliform, fecal general --- DAILY MX | 400   | >2410     | CFU/100mL |



| MP End Date | Outfall | Parameter                            | Limit | DMR Value | Units     |
|-------------|---------|--------------------------------------|-------|-----------|-----------|
| 03/31/2020  | 009-Q   | Coliform, fecal general --- MOAV GEO | 200   | 1010      | CFU/100mL |
|             |         | Coliform, fecal general --- DAILY MX | 400   | 1010      | CFU/100mL |

Each effluent limitation exceedance is a violation of LPDES permit LA0094242 (Effluent Limitations and Monitoring Requirements, Pages 1, 3, 5, 9, 11, and 13 of 21 prior to September 1, 2019; Effluent Limitations and Monitoring Requirements, Pages 1 and 3 of 15 after September 1, 2019; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

III.

An inspection conducted by the Department on or about February 26, 2020, revealed that the Respondent failed to implement a portion of the Storm Water Pollution Prevention Plan (SWPPP). Specifically, the Respondent was not conducting annual inspections. The failure to implement any portion of an SWPPP is a violation of LPDES LA0094242 (Permit Requirements, Section N-9, Page 14 of 15; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.A.

IV.

A file review conducted by the Department on or about May 14, 2020, revealed that the Respondent failed to report the following sample values:

| MP End Date   | Outfall    | Parameter  | Limit  | Units   |
|---|------------|--|--|---------|
| 03/31/2017  | 001-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG | 200  | mg/L    |
|   |            | Solids, total suspended --- MO AVG                 | 30   | mg/L    |
|   | 005-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG | 200  | mg/L    |
|   |            | Solids, total suspended --- MO AVG                 | 30   | mg/L    |
|   | 008-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG | 200  | mg/L    |
|   | 06/30/2017 | 001-Q  | Oxygen demand, chem. [high level] [COD] --- MO AVG | 200     |
| Solids, total suspended --- MO AVG                  |            |  | 30   | mg/L    |
| Flow, in conduit or thru treatment plant --- MO AVG |            |  | Report   | gal/d   |
| 001-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                   | 30   | mg/L    |
|   |            | Coliform, fecal general --- MOAV GEO               | 200  | k/100mL |
| 002-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                   | 30   | mg/L    |

| MP End Date | Outfall   | Parameter   | Limit     | Units     |
|-------------|---|---|-----------|-----------|
| 06/30/2017  | 002-S   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|             |   | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|             | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|             | 005-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|             |   | Coliform, fecal general --- MOAV GEO                | 200       | k/100mL   |
|             | 006-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|             |   | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|             | 007-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|             |   | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
| 008-Q       | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200   | mg/L      |           |
|             | Flow, in conduit or thru treatment plant --- MO AVG | Report  | gal/d     |           |
| 009-S       | BOD, 5-day, 20 deg. C --- MO AVG                    | 30  | mg/L      |           |
|             | Solids, total suspended --- MO AVG                  | 30  | mg/L      |           |
|             | Flow, in conduit or thru treatment plant --- MO AVG | Report  | gal/d     |           |
|             | Coliform, fecal general --- MOAV GEO                | 200   | CFU/100mL |           |
| 09/30/2017  | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|             | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|             |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
| 008-Q       | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200   | mg/L      |           |
|             | Flow, in conduit or thru treatment plant --- MO AVG | Report  | gal/d     |           |
| 12/31/2017  | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|             |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |

| MP End Date                          | Outfall | Parameter   | Limit     | Units     |
|--------------------------------------|---------|---|-----------|-----------|
| 12/31/2017                           | 001-Q   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      | 001-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Coliform, fecal general --- MOAV GEO                | 200       | k/100mL   |
|                                      | 002-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      |         | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|                                      | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      | 005-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Coliform, fecal general --- MOAV GEO                | 200       | k/100mL   |
|                                      | 006-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      |         | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|                                      | 007-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      |         | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|                                      | 008-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      | 009-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
| Coliform, fecal general --- MOAV GEO |         | 200   | CFU/100mL |           |
| 03/31/2018                           | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|                                      |         | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|                                      |         | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|                                      | 008-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |

| MP End Date   | Outfall   | Parameter   | Limit     | Units     |
|---|---|---|-----------|-----------|
| 03/31/2018  | 008-Q   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
| 06/30/2018  | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|   |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|   | 001-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|   |   | Coliform, fecal general --- MOAV GEO                | 200       | k/100mL   |
|   | 002-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|   |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|   |   | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|   | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|   |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|   | 005-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|   |   | Coliform, fecal general --- MOAV GEO                | 200       | k/100mL   |
|   | 006-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|   |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |
|   |   | Coliform, fecal general --- MOAV GEO                | 200       | CFU/100mL |
|   | 007-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30        | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
| Flow, in conduit or thru treatment plant --- MO AVG |   | Report  | gal/d     |           |
| Coliform, fecal general --- MOAV GEO                |   | 200   | CFU/100mL |           |
| 008-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200   | mg/L      |           |
|   | Flow, in conduit or thru treatment plant --- MO AVG | Report  | gal/d     |           |
| 009-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30  | mg/L      |           |
|   | Solids, total suspended --- MO AVG                  | 30  | mg/L      |           |
|   | Flow, in conduit or thru treatment plant --- MO AVG | Report  | gal/d     |           |
|   | Coliform, fecal general --- MOAV GEO                | 200   | CFU/100mL |           |
| 09/30/2018  | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200       | mg/L      |
|   |   | Solids, total suspended --- MO AVG                  | 30        | mg/L      |
|   |   | Flow, in conduit or thru treatment plant --- MO AVG | Report    | gal/d     |

| MP End Date | Outfall | Parameter   | Limit  | Units     |
|-------------|---------|---|--------|-----------|
| 09/30/2018  | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200    | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- MO AVG   | Report | gal/d     |
|             | 008-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200    | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- MO AVG   | Report | gal/d     |
|             |         |   |        |           |
| 12/31/2018  | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200    | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             | 001-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | k/100mL   |
|             | 002-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | CFU/100mL |
|             | 005-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200    | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             | 005-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | k/100mL   |
|             | 006-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | CFU/100mL |
|             | 007-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | CFU/100mL |
|             | 008-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200    | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             | 009-S   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |

| MP End Date   | Outfall    | Parameter   | Limit  | Units     |
|---|------------|---|--|-----------|
| 12/31/2018  | 009-S      | Coliform, fecal general --- MOAV GEO                | 200  | CFU/100mL |
| 03/31/2019  | 001-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200  | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   | 005-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200  | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   | 008-Q      | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200  | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   | 06/30/2019 | 001-Q   | Oxygen demand, chem. [high level] [COD] --- MO AVG | 200       |
| Solids, total suspended --- MO AVG                  |            |   | 30   | mg/L      |
| Flow, in conduit or thru treatment plant --- MO AVG |            |   | Report   | gal/d     |
| 001-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                    | 30   | mg/L      |
|   |            | Coliform, fecal general --- MOAV GEO                | 200  | k/100mL   |
| 002-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                    | 30   | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   |            | Coliform, fecal general --- MOAV GEO                | 200  | CFU/100mL |
| 005-Q   |            | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200  | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
| 005-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                    | 30   | mg/L      |
|   |            | Coliform, fecal general --- MOAV GEO                | 200  | k/100mL   |
| 006-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                    | 30   | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   |            | Coliform, fecal general --- MOAV GEO                | 200  | CFU/100mL |
| 007-S   |            | BOD, 5-day, 20 deg. C --- MO AVG                    | 30   | mg/L      |
|   |            | Solids, total suspended --- MO AVG                  | 30   | mg/L      |
|   |            | Flow, in conduit or thru treatment plant --- MO AVG | Report   | gal/d     |
|   |            | Coliform, fecal general --- MOAV GEO                | 200  | CFU/100mL |
| 008-Q   |            | Oxygen demand, chem. [high level] [COD] --- MO AVG  | 200  | mg/L      |

| MP End Date | Outfall | Parameter   | Limit  | Units     |
|-------------|---------|---|--------|-----------|
| 06/30/20019 | 008-Q   | Flow, in conduit or thru treatment plant --- MO AVG | Report | gal/d     |
|             | 009-S   | BOD, 5-day, 20 deg. C --- MO AVG                    | 30     | mg/L      |
|             |         | Solids, total suspended --- MO AVG                  | 30     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- MO AVG | Report | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                | 200    | CFU/100mL |
| 12/31/2019  | 002-Q   | Solids, total suspended --- MO AVG                  | 30     | mg/L      |

Each failure to report a sample value is a violation of LPDES permit LA0094242 (Effluent Limitations and Monitoring Requirements, Pages 1, 3, 5, 7, 9, 11, and 13 of 21 prior to September 1, 2019; Effluent Limitations and Monitoring Requirements, Page 3 of 15 after September 1, 2019; and Standard Conditions for LPDES Permits, Section A.2), La R.S. 30:2076 (A)(3), and LAC 33:IX.2701.A.

V.

A file review conducted by the Department on or about May 14, 2020, revealed that the Respondent failed to sample in accordance with LPDES permit LA0094242 for the following parameters:

| MP End Date | Outfall | Parameter   | Limit  | Units     |
|-------------|---------|---|--------|-----------|
| 12/31/2018  | 007-S   | pH --- INST MIN                                       | 6      | SU        |
|             |         | pH --- INST MAX                                       | 9      | SU        |
|             | 009-S   | pH --- INST MIN                                       | 6      | SU        |
|             |         | pH --- INST MAX                                       | 9      | SU        |
| 09/30/2019  | 002-Q   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30     | mg/L      |
|             |         | BOD, 5-day, 20 deg. C --- DAILY MX                    | 45     | mg/L      |
|             |         | pH --- INST MIN                                       | 6      | SU        |
|             |         | pH --- INST MAX                                       | 9      | SU        |
|             |         | Solids, total suspended --- MO AVG                    | 30     | mg/L      |
|             |         | Solids, total suspended --- DAILY MX                  | 45     | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- MO AVG   | Report | gal/d     |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200    | CFU/100mL |
|             |         | Coliform, fecal general --- DAILY MX                  | 400    | CFU/100mL |



| MP End Date | Outfall | Parameter   | Limit                            | Units     |
|-------------|---------|---|----------------------------------|-----------|
| 09/30/2019  | 009-Q   | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |
|             |         | BOD, 5-day, 20 deg. C --- DAILY MX                    | 45                               | mg/L      |
|             |         | pH --- INST MIN                                       | 6                                | SU        |
|             |         | pH --- INST MAX                                       | 9                                | SU        |
|             |         | Solids, total suspended --- MO AVG                    | 30                               | mg/L      |
|             |         | Solids, total suspended --- DAILY MX                  | 45                               | mg/L      |
|             |         | Flow, in conduit or thru treatment plant --- MO AVG   | Report                           | gal/d     |
|             |         | Flow, in conduit or thru treatment plant --- DAILY MX | Report                           | gal/d     |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200                              | CFU/100mL |
|             |         | Coliform, fecal general --- DAILY MX                  | 400                              | CFU/100mL |
| 10/31/2019  | 001-A   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200                              | mg/L      |
| 11/30/2019  | 001-A   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200                              | mg/L      |
| 12/31/2019  | 001-A   | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200                              | mg/L      |
|             |         | 002-Q   | BOD, 5-day, 20 deg. C --- MO AVG | 30        |
|             | 005-Q   | Coliform, fecal general --- MOAV GEO                  | 200                              | CFU/100mL |
|             |         | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200                              | mg/L      |
|             | 005-S   | Solids, total suspended --- MO AVG                    | 30                               | mg/L      |
|             |         | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |
|             | 006-S   | Coliform, fecal general --- MOAV GEO                  | 200                              | k/100mL   |
|             |         | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30                               | mg/L      |
|             | 007-S   | Coliform, fecal general --- MOAV GEO                  | 200                              | CFU/100mL |
|             |         | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |
|             |         | Solids, total suspended --- MO AVG                    | 30                               | mg/L      |
|             | 008-Q   | Coliform, fecal general --- MOAV GEO                  | 200                              | CFU/100mL |
|             |         | Oxygen demand, chem. [high level] [COD] --- MO AVG    | 200                              | mg/L      |
|             |         | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |
|             | 009-Q   | Solids, total suspended --- MO AVG                    | 30                               | mg/L      |
|             |         | Coliform, fecal general --- MOAV GEO                  | 200                              | CFU/100mL |
|             |         | BOD, 5-day, 20 deg. C --- MO AVG                      | 30                               | mg/L      |

Each failure to sample is a violation of LPDES permit LA0094242 (Effluent Limitations and

Monitoring Requirements, Pages 9 and 13 of 21 prior to September 1, 2019; Effluent Limitations and Monitoring Requirements, Pages 1, 3, 5, 7, and 9 of 15 after September 1, 2019; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

### **COMPLIANCE ORDER**

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with LPDES permit LA0094242 and the Water Quality Regulations including, but not limited to, complying with all effluent limitations, properly implementing the SWPPP, reporting all sample values, and sampling in accordance with the LPDES permit.

II.

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 violations 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  
**Attention: Bernie Boyett**  
**Enforcement Tracking No. WE-CN-20-00336**  
**Agency Interest No. 17208**

**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. WE-CN-20-00336**  
**Agency Interest No. 17208**

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 Division of Administrative Law's (DAL) Procedural Rules. 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 Bernie Boyett at (225) 219-0783 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. 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, 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 **"CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE"** 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.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 3rd day of July, 2020.

  
\_\_\_\_\_  
Lourdes Iturralde  
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: Bernie Boyett



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

**CONSOLIDATED COMPLIANCE ORDER &  
 NOTICE OF POTENTIAL PENALTY  
 REQUEST TO CLOSE**

|                          |                                   |                    |                            |
|--------------------------|-----------------------------------|--------------------|----------------------------|
| Enforcement Tracking No. | WE-CN-20-00336                    | Contact Name       | Bernie Boyett              |
| Agency Interest (AI) No. | 17208                             | Contact Phone No.  | (225) 219-0783             |
| Alternate ID No.         | LA0094242                         |                    |                            |
| Respondent:              | <b>FRANK'S INTERNATIONAL, LLC</b> | Facility Name:     | Frank's International, LLC |
|                          | c/o Corporation Service Company   | Physical Location: | 700 E. Verot School Road   |
|                          | Agent for Service of Process      |                    |                            |
|                          | 501 Louisiana Avenue              | City, State, Zip:  | Lafayette, LA 70508        |
|                          | Baton Rouge, Louisiana 70802      | Parish:            | Lafayette                  |

**STATEMENT OF COMPLIANCE**

| STATEMENT OF COMPLIANCE   | Date Completed | Copy Attached? |
|---|----------------|----------------|
| A written report was submitted in accordance with Paragraph II of the "Order" portion of the <b>COMPLIANCE ORDER</b> .  |                |                |
| All items in the "Findings of Fact" portion of the <b>COMPLIANCE ORDER</b> were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the <b>COMPLIANCE ORDER</b> . Final compliance was achieved as of: |                |                |

**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 <b>NOTICE OF POTENTIAL PENALTY (WE-CN-20-00336)</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.   |
| _____ | In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-20-00336)</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- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</b></li> </ul> |
|       | The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY (WE-CN-20-00336)</b> and has attached a justification of its offer and a description of any BEPs if included in settlement offer.   |



| <b>CERTIFICATION STATEMENT</b>   |                           |                    |
|--|---------------------------|--------------------|
| <p><i>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.</i></p> |                           |                    |
|  |                           |                    |
| Respondent's Signature   | Respondent's Printed Name | Respondent's Title |
|  |                           |                    |
| Respondent's Physical Address  | Respondent's Phone #      | Date               |
| <b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>   |                           |                    |
| Louisiana Department of Environmental Quality<br>Office of Environmental Compliance<br>Enforcement Division<br>P.O. Box 4312<br>Baton Rouge, LA 70821<br>Attn: Bernie Boyett   |                           |                    |

# SETTLEMENT AGREEMENTS

## WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

## HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

## WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

|  |          | NATURE AND GRAVITY OF THE VIOLATION |                            |                            |
|--|----------|-------------------------------------|----------------------------|----------------------------|
|  |          | MAJOR                               | MODERATE                   | MINOR                      |
| DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY | MAJOR    | \$32,500<br>to<br>\$20,000          | \$20,000<br>to<br>\$15,000 | \$15,000<br>to<br>\$11,000 |
|  | MODERATE | \$11,000<br>to<br>\$8,000           | \$8,000<br>to<br>\$5,000   | \$5,000<br>to<br>\$3,000   |
|  | MINOR    | \$3,000<br>to<br>\$1,500            | \$1,500<br>to<br>\$500     | \$500<br>to<br>\$100       |

### Degree of Risk to Human Health or Property

**Major:** (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

**Moderate:** (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

**Minor:** (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

### Nature and Gravity of the Violation

**Major:** Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

**Moderate:** Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

**Minor:** Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



# SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum}))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

## WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

## WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

## WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

|   |   |
|---|---|
| Settlement Offers .....                 | searchable in <u>EDMS</u> using the following filters<br>Media: Air Quality, Function: Enforcement; Description: Settlement |
| Settlement Agreements .....             | <u>Enforcement Division's website</u><br>specific examples can be provided upon request                                     |
| Penalty Determination Method .....      | <u>LAC 33:1 Chapter 7</u>   |
| Beneficial Environmental Projects ..... | <u>LAC 33:1 Chapter 25</u>  |
| Judicial Interest.....                  | <u>FAQs</u><br>provided by the Louisiana State Bar Association  |

