

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-23-0037
PROFORM FINISHING PRODUCTS, LLC	*	
	*	Enforcement Tracking No.
AI # 1405	*	AE-PP-21-00235
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Proform Finishing Products, 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 owned and/or operated a gypsum wallboard manufacturing plant located in Westwego, Jefferson Parish, Louisiana (“the Facility”).

II

On June 1, 2021, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-21-00235 (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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Three Thousand One Hundred Eighty-One and 28/100 Dollars (\$3,181.28) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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), the Notice of Potential Penalty and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Jefferson Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 Settlement 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 attached hereto.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement Agreement.

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.

PROFORM FINISHING PRODUCTS, LLC

BY: Laura C. Budzichowski
(Signature)

Laura C. Budzichowski
(Printed)

TITLE: Vice President & Secretary

THUS DONE AND SIGNED in duplicate original before me this 14th day of November, 20 23, at Charlotte, North Carolina



Sarah Howard
NOTARY PUBLIC (ID #202201100036)
Sarah Howard

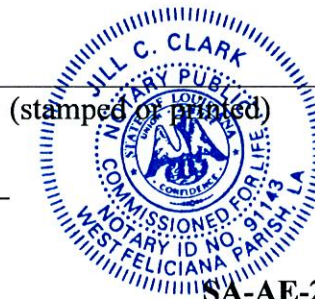
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LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

BY: Aurelia S. Giacometto
Aurelia S. Giacometto, Secretary

THUS DONE AND SIGNED in duplicate original before me this 6th day of March, 20 24, at Baton Rouge, Louisiana.

Jill C. Clark
NOTARY PUBLIC (ID # 91143)
La. Bar No. 33050



(stamped or printed)

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

June 1, 2021

CERTIFIED MAIL (7020 1810 0000 5261 0157)
RETURN RECEIPT REQUESTED



PROFORM FINISHING PRODUCTS, LLC
c/o Corporate Creations Network, Inc.
Agent for Service of Process
1070-B West Causeway Approach
Mandeville, LA 70471

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-21-00235
AGENCY INTEREST NO. 1405**

Dear Sir/Madam:

On or about October 23, 2020, the Department conducted an inspection in response to citizens' complaints (Incident Nos. T-199306 and T-199363) at the **WESTWEGO PLANT**, a gypsum wallboard manufacturing facility, owned and/or operated by **PROFORM FINISHING PRODUCTS, LLC (RESPONDENT)**, to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The Respondent owned and/or operated the Westwego Plant (the facility), a gypsum wallboard manufacturing plant, located at 10 Louisiana Street in Westwego, Jefferson Parish, Louisiana. On January 22, 2021, Gold Bond Building Products, LLC, submitted a Notification of Change Form (NOC-1) notifying the Department that Gold Bond Building Products, LLC, acquired the facility from New NGC Inc. In correspondence dated April 13, 2021, the Department transferred Minor Source Air Permit No. 1340-00017-09 (effective date October 9, 2017) to Gold Bond Building Products, LLC, with an effective date of January 1, 2021. On or about February 5, 2021, the Respondent's name was changed from New NGC, Inc. to Proform Finishing Products, LLC.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to use and diligently maintain air pollution control facilities in proper working order whenever any emissions are being made. Specifically, during the inspection, the Calcidyne Building was in operation and was inspected due to the presence of dusting. The interior of the building and the equipment was heavily coated in dust. The dust collectors inside the building were emitting dust from various leaks, forming a heavy dust cloud within the building. Dust was released to the atmosphere

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forming a heavy dust cloud within the building. Dust was released to the atmosphere through the open bay door, windows, and hatches of the building. Additionally, at the time of the inspection, the exterior Board End Trim Baghouse (BET) vents were emitting dust to the atmosphere. The failure to use and maintain air pollution control facilities in proper working order when emissions are being made which can be controlled by the facilities is a violation of LAC 33:III.905.A and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. The Respondent failed to prevent particulate matter from becoming airborne. Specifically, the road running through the facility was heavily covered in dust and visible dust emissions were observed from vehicle and foot traffic. In email correspondence dated October 23, 2020, the Respondent's representative stated he reviewed video of the surrounding areas of the plant from October 15-16, 2020, and noted that he observed airborne dust in the truck/trailer parking lot along the property fence line to Louisiana Street. Additionally, the Respondent's representative stated the parking lot is comprised of gypsum/dirt that tends to become airborne when trucks move in and out of the area. As a corrective action, the Respondent's representative stated the facility would amend the current Fugitive Dust Plan and keep the dust under control by dampening the area to prevent excess airborne dust. The failure to take all reasonable precautions to prevent particulate matter from becoming airborne is a violation of Specific Requirement 8 of Minor Source Permit No. 1340-00017-09, LAC 33:III.1305.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to repair and return baghouses/filter vents to proper operation as expeditiously as practicable, but at a maximum within three (3) working days after visible emissions were observed. Specifically, work orders of filter vent repairs were reviewed and compared with the daily visible emissions dust collector inspection records. The table below outlines seven (7) occasions where the baghouses/filter vents were not repaired within three (3) days after visible emissions were observed:

EQUIPMENT SOURCE/ EQT NO.	EMISSIONS OBSERVED DATE	REPAIR WORK ORDER COMPLETION DATE	DAYS BETWEEN OBSERVATION & REPAIR*
Flue Gas Desulfurization (FGD) Vents Outside/ EQT 0013	5/3/2019	5/8/2019	5
FGD Vents Outside/ EQT 0013	5/4/2019	5/8/2019	4
FGD Vents Outside/ EQT 0013	6/9/2019	6/16/2019	7
FGD Vents Outside/ EQT 0013	6/10/2019	6/16/2019	6
FGD Vents Outside/ EQT 0013	6/11/2019	6/16/2019	5
BET Vents Outside/ EQT 0006	10/20/2020	10/27/2020	7
BET Vents Outside/ EQT 0006	10/22/2020	10/27/2020	5

*Working days, which includes weekends, based on Daily Visible Emission for Dust Collector Logs

Each failure to timely return a dust filter to proper operation is a violation of Specific Requirement 15 of Minor Source Permit No. 1340-00017-09, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

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- D. The Respondent failed to perform monthly visual inspections to check that water is flowing to discharge spray nozzles in the wet suppression system for common requirements group 0002 (CRG 0002), which includes EQTs 0007 (Raymond Mill No. 2 and Land Plaster Bin Baghouse), EQT 0009 (Waste Board Recycling System), EQT 0013 (Cage Mill Baghouse), EQT 0020 (Paper Screening Unit 1), EQT 0021 (Paper Screening Unit 2), EQT 0022 (Hammermill), and EQT 0025 (Crusher/Separator with Baghouse inside building). Specifically, the facility representative stated these monthly inspections were never performed. Each failure to perform monthly visual inspections is a violation of Specific Requirement 22 of Minor Source Air Permit No. 1340-00017-09, 40 CFR 60.674(b), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to quarterly monitor baghouses in CRG 0002 for visible emissions while operating using 40 CFR 60 Appendix A, Method 22. Specifically, during the inspection, the Department's inspector requested records of the quarterly baghouse visible emissions monitoring, and the facility representative stated that he had never heard of the requirement. Each failure to perform quarterly monitoring is a violation of Specific Requirement 26 of Minor Source Permit No. 1340-00017-09, 40 CFR 60.674(c), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- F. The Respondent failed to develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound (VOC) emissions from the facility. Specifically, the Respondent had not developed a VOC Housekeeping Plan at the time of the inspection. The failure to develop a VOC Housekeeping Plan is a violation of Specific Requirement 42 of Minor Source Permit No. 1340-00017-09, LAC 33:III.2113.A.4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated October 30, 2020, the Respondent emailed the NGC Westwego VOC Housekeeping Plan dated October 26, 2020, to the inspector.

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 Courtney Tolbert at 225-219-3347 or courtney.tolbert@la.gov 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

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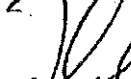
violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this 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.Chapter 7. 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.

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 Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/CJT/cjt
Alt ID No. 1340-00017

c: Keith Babcock
PO Box 128
Westwego, LA 70094

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-CN-21-00235	Contact Name	Courtney Tolbert
Agency Interest (AI) No.	1405	Contact Phone No.	225-219-3347
Alternate ID No.	1340-00017		
Respondent:	Proform Finishing Products, LLC	Facility Name:	Westwego Plant
	c/o Corporate Creations Network, Inc.	Physical Location:	10 Louisiana Street
	Agent for Service of Process		
	1070-B West Causeway Approach	City, State, Zip:	Westwego, LA 70094
	Mandeville, LA 70471	Parish:	Jefferson

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 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY AE-PP-21-00235 , 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 NOTICE OF POTENTIAL PENALTY AE-PP-21-00235 , 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"> • 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.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY AE-PP-21-00235 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

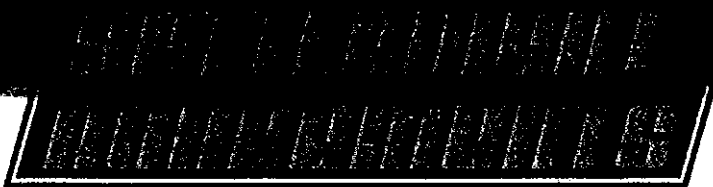
CERTIFICATION STATEMENT

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: Courtney Tolbert



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 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$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.

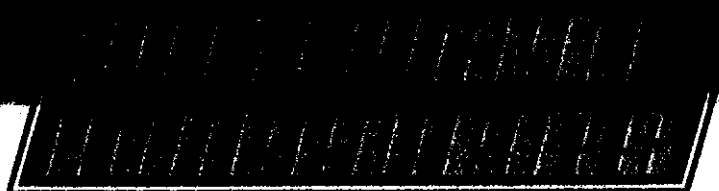
Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

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.





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 EDMS using the following filters
Media: Air Quality, Function: Enforcement, Description: Settlement
- Settlement Agreements Enforcement Division's website
specific examples can be provided upon request
- Penalty Determination Method LAC 33:I Chapter 7
- Beneficial Environmental Projects LAC 33:I Chapter 25
FAQs
- Judicial Interest..... provided by the Louisiana State Bar Association

