

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WEST FRASER, INC.

AI # 2866

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

* Settlement Tracking No.
* SA-MM-20-0008
*
* Enforcement Tracking Nos.
* AE-PP-13-00920
* WE-PP-18-00703
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SETTLEMENT

The following Settlement is hereby agreed to between West Fraser, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a sawmill located in Joyce, Winn Parish, Louisiana (“the Facility”).

II

On January 6, 2014, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-13-00920 (Exhibit 1).

On May 3, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. WE-PP-18-00703 (Exhibit 2).

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 FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$4,500.00), of which One Thousand Three Hundred Sixty-Five and 34/100 Dollars (\$1,365.34) 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 Notices 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 Winn 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.

WEST FRASER, INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

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

BY: _____
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved:  _____
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 6, 2014

CERTIFIED MAIL (7004 2510 0006 3853 0611)
RETURN RECEIPT REQUESTED

WEST FRASER, INC.
c/o C T Corporation System
Agent for Service of Process
5615 Corporate Blvd., Ste. 400B
Baton Rouge, LA 70808

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-13-00920
AGENCY INTEREST NO. 2866**

Dear Sir:

On or about November 5, 2013, a file review of **JOYCE SAWMILL** (the facility), a sawmill, owned and/or operated by **WEST FRASER, INC. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The facility is located at 6481 Louisiana Highway 34 in Joyce, Winn Parish, Louisiana.

The facility operates, or has operated, under permits as shown in Table A:

TABLE A

Title V Permit No.	Permit Issue Date	Permit Expiration Date
3240-00006-V0	April 24, 2002	April 24, 2008
3240-00006-V1	July 19, 2004	July 19, 2009
3240-00006-V2	July 6, 2010	July 6, 2015
3240-00006-V3	August 16, 2011	July 6, 2015

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 file review:

- A. In correspondence dated August 28, 2013, the Respondent submitted the facility's 2012 kiln lumber production and VOC emissions report, postmarked September 13, 2013. The report was due March 31, 2013. The failure to submit the kiln report by the due date is a violation of Specific Requirement



Notice of Potential Penalty
West Fraser, Inc.
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26 of Title V Permit No. 3240-00006-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. In correspondence dated August 28, 2013, the Respondent submitted the facility's 2011 kiln lumber production report, postmarked September 13, 2013. The report was due March 31, 2012. The failure to submit the kiln report by the due date is a violation of Specific Requirement 1 of GRP 3 AK1 of Title V Permit No. 3240-00006-V1, Specific Requirement 41 of Title V Permit No. 3240-00006-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. In correspondence dated August 28, 2013, the Respondent submitted the facility's 2011 kiln lumber production report. The submission failed to report the VOC emissions for 2011. The submission was due March 31, 2012. The VOC emissions for 2011 were reported in a revised 2011 Annual Compliance Certification postmarked August 28, 2013. The failure to timely submit the VOC emissions is a violation of Specific Requirement 26 of Title V Permit No. 3240-00006-V3, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- D. In correspondence dated as shown, the Respondent submitted Annual Compliance Certifications and Second Semiannual Monitoring Reports. The correspondence title, period encompassed, and postmark date, are shown in Table B:

TABLE B

Correspondence Title	Period Encompassed	Due Date	Postmark Date
2010 Annual Compliance Certification	January 1, 2010 through December 31, 2010	March 31, 2011	April 1, 2011
2010 Second Semiannual Monitoring Report	July 1, 2010 through December 31, 2010		
2011 Annual Compliance Certification	January 1, 2011 through December 31, 2011	March 31, 2012	April 3, 2012
2011 Second Semiannual Monitoring Report	July 1, 2011 through December 31, 2011		
2012 Annual Compliance Certification	January 1, 2012 through December 31, 2012	March 31, 2013	April 1, 2013
2012 Second Semiannual Monitoring Report	July 1, 2012 through December 31, 2012		

Each failure to timely submit the Annual Compliance Certification is a violation of Part 70 General Condition R of Title V Permit No. 3240-00006-V2, or Part 70 General Condition R of Title V Permit No. 3240-00006-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Each failure to timely submit the Semiannual Monitoring Report is a violation of Part 70 General Condition K of Title V Permit No. 3240-00006-V2, or

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West Fraser, Inc.
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Part 70 General Condition K of Title V Permit No. 3240-00006-V3,
LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

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 violations described herein. Written comments may be filed regarding the violations 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 violations. 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 **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement.

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.

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,



Cheryl Sonnier Nolan
Assistant Secretary

CSN/MEB/meb
Alt ID No. 3240-00006

c: West Fraser, Inc.
James Gandy
P O Drawer 1
Joyce, LA 71440

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		NOTICE OF POTENTIAL PENALTY		
Enforcement Tracking No.	WE-PP-18-00703	Certified Mail No.	7017 0530 0000 5978 8282	
Agency Interest (AI) No.	2866	Contact Name	Richard Ober, Jr.	
Alternate ID No.	LA0007498	Contact Phone No.	(225) 219-3135	
Respondent:	West Fraser, Inc.	Facility Name:	Joyce Sawmill	
	c/o C T Corporation System	Physical Location:	6481 Highway 34	
	Agent for Service of Process	City, State, Zip:	Joyce, LA 71440	
	3867 Plaza Tower Dr. Baton Rouge, LA 70816	Parish:	Winn Parish	
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).				

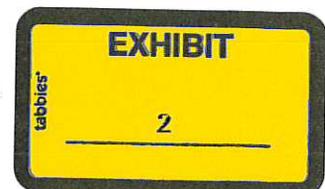
FINDINGS OF FACT

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.

I.	<p>The Respondent owns and/or operates a sawmill located at 6481 Highway 34 in Joyce, Winn Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0007498 on February 20, 2014, with an effective date of April 1, 2014, and an expiration date of March 31, 2019. On or about September 10, 2018, the Department received from the Respondent, a LPDES permit renewal/modification application under cover letter dated September 4, 2018, and LPDES Permit LA0007498 was administratively continued. Under the terms and conditions of LPDES Permit LA0007498, the Respondent is permitted to discharge stormwater runoff, treated sanitary wastewater, wash basin water, log spray pond overflow, general service washdown water, air compressor condensate, boiler blowdown and backwash water, non-contact cooling water, and fire protection service water into local drainage, thence into Bayou Black, thence into Brushy Creek, all waters of the state.</p> <p>The Department had issued a Declaration of Emergency and Administrative Order on March 10, 2016, in response to the severe weather event that occurred on March 8 through March 11, 2016. The Declaration of Emergency and Administrative Order was extended on May 27, 2016 (first extension) and again on July 18, 2016 (second extension). The second extension reissued the Declaration of Emergency and Administrative Order through August 15, 2016.</p>								
	<table border="1"> <thead> <tr> <th style="text-align: center;">Date of Violation</th> <th style="text-align: center;">Description of Violation</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"> Inspection(s) 6/13/2018 </td> <td> The Respondent failed to report changes to the permitted facility. Outfall 001 no longer exists after it was washed out during the flood event of March 2016. The facility was discharging from a diversion weir located approximately 50 feet from the previous Outfall 001. The inspection noted that the levee was repaired and Outfall 001 was not replaced. No notification was received by the Department of this change. (LPDES Permit LA0007498 (Standard Conditions for LPDES Permits, Sections A.2 and D.1), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.1) </td> </tr> <tr> <td style="text-align: center;"> Inspection(s) 6/13/2018 </td> <td> The Respondent failed to measure the flow of the discharge as required by LPDES Permit LA0007498. Specifically, the flow was not being continuously recorded as required by the permit. (LPDES Permit LA0007498 (Effluent Limitations and Monitoring Requirements, page 1 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A) </td> </tr> <tr> <td style="text-align: center;"> Inspection(s) 6/13/2018 </td> <td> The Respondent failed to comply with LPDES Permit LA0007498. Specifically, the Respondent reported an exceedance of the permit effluent limitation for fecal coliform for Outfall 001. The daily maximum permit limitation for fecal coliform was 400 col/100 mL. The Respondent reported on the June 2015 DMR, a value of 740 col/100 mL. (LPDES Permit LA0007498 (Effluent Limitations and Monitoring Requirements, page 1 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A) </td> </tr> </tbody> </table>	Date of Violation	Description of Violation	Inspection(s) 6/13/2018	The Respondent failed to report changes to the permitted facility. Outfall 001 no longer exists after it was washed out during the flood event of March 2016. The facility was discharging from a diversion weir located approximately 50 feet from the previous Outfall 001. The inspection noted that the levee was repaired and Outfall 001 was not replaced. No notification was received by the Department of this change. (LPDES Permit LA0007498 (Standard Conditions for LPDES Permits, Sections A.2 and D.1), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.1)	Inspection(s) 6/13/2018	The Respondent failed to measure the flow of the discharge as required by LPDES Permit LA0007498. Specifically, the flow was not being continuously recorded as required by the permit. (LPDES Permit LA0007498 (Effluent Limitations and Monitoring Requirements, page 1 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)	Inspection(s) 6/13/2018	The Respondent failed to comply with LPDES Permit LA0007498. Specifically, the Respondent reported an exceedance of the permit effluent limitation for fecal coliform for Outfall 001. The daily maximum permit limitation for fecal coliform was 400 col/100 mL. The Respondent reported on the June 2015 DMR, a value of 740 col/100 mL. (LPDES Permit LA0007498 (Effluent Limitations and Monitoring Requirements, page 1 of 5 and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A)
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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 Richard Ober, Jr. at (225) 219-3135 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.	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	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.	Physical Address (if hand delivered): 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 33:1.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.
- Before requesting closure of this **NOTICE OF POTENTIAL PENALTY**, please contact the Financial Services Division at 225-219-3865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.



 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 8-3-19

cc: Mr. Billy Bell, Mill Manager
 West Fraser, Inc.
 Joyce Sawmill
 Post Office Box 1
 Joyce, LA 71440

Attachment(s)
 - 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.	WE-PP-18-00703	Contact Name	Richard Ober, Jr.				
Agency Interest (AI) No.	2866	Contact Phone No.	(225) 219-3135				
Alternate ID No.	LA0007498						
Respondent:	West Fraser, Inc.	Facility Name:	Joyce Sawmill				
	c/o C T Corporation System Agent for Service of Process	Physical Location:	6481 Highway 34				
	3867 Plaza Tower Dr.	City, State, Zip:	Joyce, LA 71440				
	Baton Rouge, LA 70816	Parish:	Winn Parish				
SETTLEMENT OFFER (OPTIONAL)							
<i>(check the applicable option)</i>							
<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 Subpart 1 Chapter 7.						
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-PP-18-00703), 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 (WE-PP-18-00703), 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 (WE-PP-18-00703) 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 Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.							

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

SETTLEMENT AGREEMENTS

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.

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).

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.



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.

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.

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.

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
Judicial Interest.....	FAQs provided by the Louisiana State Bar Association

