

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM

AI # 3057

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

* Settlement Tracking No.
* SA-MM-20-0089
*
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* Enforcement Tracking No.
* MM-PP-19-00483
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SETTLEMENT

The following Settlement is hereby agreed to between the Board of Supervisors for the University of Louisiana System (“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 an entity that owned and/or operated a public, urban university located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On August 13, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-19-00483 (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 SEVEN THOUSAND AND NO/100 DOLLARS (\$7,000.00), of which One Thousand Twenty-Two and 57/100 Dollars (\$1,022.57) 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), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for

both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Orleans 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.

BOARD OF SUPERVISORS FOR THE
UNIVERSITY OF LOUISIANA SYSTEM


BY: 
(Signature)

GLORIA J. WALKER
(Printed)

TITLE: Vice President Business Affairs & CFO

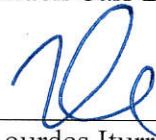
THUS DONE AND SIGNED in duplicate original before me this 16 day of
March, 20 21, at New Orleans, LA.



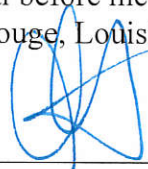

NOTARY PUBLIC (ID # 138566)

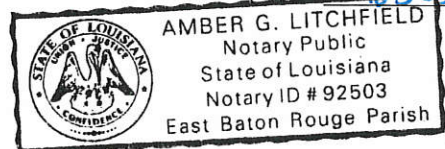
Christian Fichtenkort
(stamped or printed)

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 23rd day of
June, 20 21, at Baton Rouge, Louisiana.


NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: 
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE

August 13, 2019

CERTIFIED MAIL (7018 0360 0001 5039 1116)
RETURN RECEIPT REQUESTED

BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM

c/o Joy Samuel
Agent for Service of Process
1201 North Third Street, Suite 7-300
Baton Rouge, LA 70802

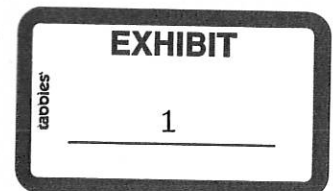
**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-PP-19-00483
AGENCY INTEREST NO. 3057**

Dear Madam:

On or about September 21, 2018, an inspection of **THE UNIVERSITY OF NEW ORLEANS**, a public, urban university, owned and/or operated by **BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. The facility is located at 2000 Lakeshore Drive in New Orleans, Orleans Parish, Louisiana. The facility has numerous teaching and research laboratories that generate hazardous waste. The facility is registered as a small quantity generator of hazardous waste and has been assigned EPA Identification No. LAD077914018.

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 notify the Office of Environmental Services within seven (7) days if any of the information submitted in the application for the identification number changes, in violation of LAC 33:V.1105.B. Specifically, a review of the hazardous waste manifests from 2016 to 2018 revealed EPA hazardous waste codes D006, D009, D018, D023, D024, D025, P001, P012, P042, P048, P105, P120, U029, U081, U115, U122, U123, U134, U151, U153, U188, and U213 were included on the facility's manifests dated February 26, 2016; July 26, 2017; October 24, 2017; February 2, 2018; and May 4, 2018, but these waste codes were not included on the HW-1 Form submitted to the Department dated April 21, 2010. A revised HW-1 Form was submitted to the



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Department dated May 20, 2019, which included all missing waste codes. The HW-1 Form was received on or about May 24, 2019.

- B. The Respondent failed to maintain records of weekly inspections of the hazardous waste containers in accordance with LAC 33:V.2109.C, in violation of LAC 33:V.1109.E.7.a. A representative of the Respondent stated that weekly inspections were conducted; however, a written inspection log was not kept. At the time of the September 21, 2018 inspection, the representative of the Respondent created a written inspection log and filled it out during the Department's inspection.
- C. The Respondent failed to mark satellite accumulation containers of hazardous waste with the words "Hazardous Waste" or other words that identify the contents of the containers, in violation of LAC 33:V.1109.E.4. Specifically, the following containers of hazardous waste were not properly labeled:
1. One (1) 2-liter container of hazardous waste located in Research Lab 309 was not labeled with the words "Hazardous Waste." The contents of the container were identified as hazardous waste by a representative of the Respondent during the inspection.
 2. Two (2) 1-gallon containers of hazardous waste located in Research Lab 326 were not labeled with the words "Hazardous Waste." The contents of the containers were identified as hazardous waste by a representative of the Respondent during the inspection.

In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent stated that "Hazardous Waste" labels were purchased, and an internal training was conducted with laboratory workers on proper labeling of hazardous waste containers. Additionally, the representative of the Respondent also stated that internal personnel would perform monthly unannounced inspections of all laboratories to ensure hazardous waste containers are being properly labeled.

- D. The Respondent failed to close satellite accumulation containers of hazardous waste as specified by LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, the following containers of hazardous waste were not closed:
1. Three (3) 1-gallon containers of hazardous waste, which were labeled "Metal Aq Waste," "Organic Waste," or "Oil Waste," located in Research Lab 311 were not closed. The contents of the containers were identified as hazardous waste by a representative of the Respondent during the inspection.
 2. One (1) 1-gallon container of hazardous waste located in Research Lab 326 was not closed. A representative of the Respondent identified the contents of the container as hazardous waste and closed the container during the inspection.
 3. One (1) 1-gallon container of hazardous waste labeled "Halogen Organic Waste" and located in Research Lab 328 was not closed. The contents of the container were identified as hazardous waste by a

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representative of the Respondent during the inspection. The container was closed by the representative during the inspection.

4. One (1) 2-liter container and one (1) 1-gallon container of hazardous waste located in Research Lab 345 were not closed. Both containers were labeled with the words "Hazardous Waste."
5. Three (3) 1-gallon containers of hazardous waste located in Research Lab 348 were not closed. The containers were labeled with the words "Hazardous Waste." One (1) of the containers was closed by a representative of the Respondent during the inspection.

In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted photos of hazardous containers in Lab 326 and Lab 1086 showing that the containers are closed. The representative of the Respondent also stated that an internal training was conducted with laboratory workers to ensure all containers of hazardous waste are closed unless adding waste. Additionally, the representative of the Respondent also stated that internal personnel would perform monthly unannounced inspections of all laboratories to ensure hazardous waste containers are closed.

- E. The Respondent failed to label or mark clearly each lamp or a container or package in which such lamps are contained with any of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of LAC 33:V.3823.A.6. Specifically, in the universal waste storage area, the following universal lamps were not labeled:
1. One (1) box of 8-foot waste fluorescent lights was not labeled.
 2. One (1) box of 2-foot waste fluorescent lights was not labeled and was dated October 6, 2016.
 3. One (1) box of waste fluorescent U lights was not labeled.
 4. One (1) box of waste HID lights was not labeled and was dated March 21, 2017.

During the inspection, a representative of the Respondent identified all of the lamps as waste lamps. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted photos of the universal waste lamps accumulation area showing the area is now labeled with "Universal Waste" and "Waste Lamps."

- F. The Respondent failed to mark containers of universal waste with an accumulation start date, in violation of LAC 33:V.3825.C. Specifically, the boxes of waste lamps described in Findings of Fact Paragraphs II.E.1 and II.E.3 were not labeled with an accumulation start date. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted a photo of a box of universal waste lamps with an accumulation date marked. The representative of the Respondent also stated that an internal training was conducted with laboratory workers and emphasis was placed on the importance of waste labels.

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- G. The Respondent stored universal waste for longer than one (1) year from the date the universal waste was generated, or received from another handler, in violation of LAC 33:V.3825.A. Specifically, during the inspection, a representative of the Respondent stated that the box of waste lamps described in Findings of Fact Paragraph II.E.1 had been onsite for more than two (2) years. Additionally, the boxes of waste lamps described in Findings of Fact Paragraphs II.E.2 and II.E.4 were stored for longer than one (1) year. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted documentation from Republic Services showing three (3) containers of universal waste were received for recycling. The representative of the Respondent also stated that an internal training was conducted with laboratory workers, which included universal waste storage requirements.
- H. The Respondent failed to ensure containers of used oil remained closed during storage in accordance with LAC 33:V.2107.A, in violation of LAC 33:V.4013.B. Specifically, one (1) 200-gallon tank labeled with the words "Used Oil" and located behind the maintenance shop, was not closed. During the inspection, a representative of the Respondent identified the contents of the tank as used oil. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted a photo of the closed used oil tank. The representative of the Respondent also stated that an internal training was conducted with the mechanic shop employee and emphasis was placed on closing containers.
- I. The Respondent failed to clearly mark or label a container used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D. Specifically, the following containers of used oil, located behind the maintenance shop, were not labeled: three (3) 20-gallon containers, one (1) 30-gallon container, and two (2) 55-gallon containers. During the inspection, a representative of the Respondent identified the contents of the containers as used oil. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted a photo showing the three (3) 20-gallon containers, one (1) 30-gallon container, and two (2) 55-gallon containers of used oil had been removed. The representative of the Respondent also submitted two (2) nonhazardous waste manifests showing 100 gallons of used oil and ten (10) RCRA empty containers were disposed.
- J. The Respondent stored more than twenty (20) whole waste tires without authorization from the Department, in violation of LAC 33:VII.10509.C. Specifically, fifty-two (52) waste utility terrain vehicle tires and one (1) waste passenger tire were stored behind the maintenance shop of the facility. In a response submitted to the Department via e-mail on April 29, 2019, a representative of the Respondent submitted a photo showing the tires had been removed from the area and stated that the waste tires are now stored in a container. Per the response, the Respondent contacted OMI Environmental

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Solutions to remove the waste tires. The Respondent submitted a disposal receipt and a waste tire manifest dated June 6, 2019, to the Department via e-mail for sixty-five (65) waste golf cart tires and six (6) auto tires.

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 Ashley Manuel at (225) 219-3794 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.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.

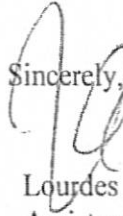
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To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,




Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/AMM

Alt ID No. LAD077914018

- c: The University of New Orleans
c/o Dr. John Nicklow, President
2000 Lakeshore Drive (Administration Annex Building)
New Orleans, LA 70148

 - c: The University of New Orleans
c/o David Richardson, Safety Officer
2000 Lakeshore Drive (Safety Office)
New Orleans, LA 70148
- 



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.	MM-PP-19-00483	Contact Name	Ashley Manuel
Agency Interest (AI) No.	3057	Contact Phone No.	(225) 219-3794
Alternate ID No.	LAD077914018		
Respondent:	BOARD OF SUPERVISORS FOR THE UNIVERSITY OF LOUISIANA SYSTEM	Facility Name:	University of New Orleans
	c/o Joy Samuel	Physical Location:	2000 Lakeshore Drive
	Agent for Service of Process		
	1201 North Third Street, Suite 7-300 Baton Rouge, LA 70802	City, State, Zip:	New Orleans, LA 70148
		Parish:	Orleans

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:I.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (MM-PP-19-00483)**, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (MM-PP-19-00483)**, the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional)= \$ _____
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-** the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY (MM-PP-19-00483)** 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: Ashley Manuel