

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LCS RECYCLING LLC

AI # 173988

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

* Settlement Tracking No.
* SA-MM-21-0099
*
* Enforcement Tracking No.
* MM-CN-19-01152
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SETTLEMENT

The following Settlement is hereby agreed to between LCS Recycling 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 a used cooking oil collection and storage facility located in Mandeville, St. Tammany Parish, Louisiana (“the Facility”).

II

On March 30, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-19-01152 (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 NINE THOUSAND AND NO/100 DOLLARS (\$9,000.00), of which One Thousand One Hundred Eighty and 72/100 Dollars (\$1,180.72) 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 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 St. Tammany 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.

LCS RECYCLING LLC

BY: [Signature]
(Signature)

STAN M...
(Printed)

TITLE: owner

THUS DONE AND SIGNED in duplicate original before me this 25 day of April, 20 22, at Mandeville.

[Signature]
NOTARY PUBLIC (ID # _____)

TRACY A SALVAGGIO
Notary Public #84772
State of Louisiana
My Commission is issued for Life

(stamped or printed)

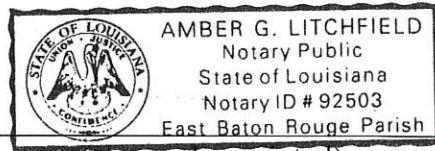
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

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

THUS DONE AND SIGNED in duplicate original before me this 9th day of August, 20 22, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

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

CV

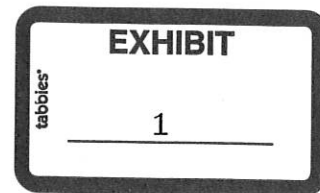
JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 30 2020



CERTIFIED MAIL (7018 0360 0001 5039 3523)
RETURN RECEIPT REQUESTED

LCS RECYCLING LLC
c/o Stephen Brindle
Agent for Service of Process
1525 Albert Street
Mandeville, LA 70448

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-19-01152
AGENCY INTEREST NO. 173988**

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 **LCS RECYCLING 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 Crystal Vance at (225) 219 – 3373.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/CLV/kwf
Alt ID No. LAU008357
Attachment

c: Stephen Brindle
22164 MCH Road Unit J
Mandeville, LA 70471

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF	*	
	*	
LCS RECYCLING LLC	*	ENFORCEMENT TRACKING NO.
ST. TAMMANY	*	
ALT ID NO. LAU008257	*	MM-CN-19-01152
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	173988
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **LCS RECYCLING 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), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a used cooking oil collection and storage facility known to the Department as LCS Recycling, located at 22164 MCH Road Unit J in Mandeville, St. Tammany Parish, Louisiana. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit and does not have authorization to discharge to waters of the state. The Respondent does not have a permit and/or authority from the Department to operate a solid waste disposal site.

II.

On or about August 26, 2019, and December 30, 2019, the Department received citizen complaints; incident numbers T 192993 and T 194790, respectively, alleging that the facility allowed used cooking oil to discharge onto neighboring properties and to the roadside ditch.

III.

On or about September 18, 2019; October 15, 2019; October 18, 2019; and January 27, 2020, the Department conducted inspections at the above referenced facility, in response to citizen complaints, to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent caused and/or allowed the discharge of cooking oil to waters of the state in violation of La. R.S. 30:2075. Specifically, on August 24, 2019, the Respondent discharged approximately three hundred (300) gallons of used cooking oil from a damaged pipe. The oil escaped secondary containment and flowed over soil to a roadside ditch which flows into Ponchitolawa Creek.
- B. The Respondent failed to notify the Department of the above-referenced discharge of used cooking oil in violation of La. R.S. 30:2076(A)(3), LAC 33:I.3917.A, and LAC 33:I.3925.A. Specifically, the Respondent failed to notify the Department of Public Safety by telephone within twenty-four (24) hours of learning of the discharge in violation of LAC 33:I.3917.A. The Respondent also failed to submit written notification to the Department of Environmental Quality's Single Point of Contact within seven (7) calendar days following the expiration of the time allowed for the notification required by LAC 33:I.3917 in violation of LAC 33:I.3925.A.
- C. The Respondent failed to prepare and implement a Spill Prevention and Control (SPC) Plan in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.905.B. Specifically, the facility contains a combined used cooking oil storage capacity of twenty-five thousand four hundred (25,400) gallons, which requires the Respondent to develop a SPC Plan within one hundred eighty (180) days of the facility beginning operation and to fully implement an SPC Plan no later than one (1) year after beginning operation. The facility has been in operation since November 1, 2010. On or about January 2, 2020, the Respondent submitted a SPC Plan to the Department via email.

- D. The Respondent failed to take prompt remedial action in violation of La. R.S. 30:2077. Specifically, following the discharge of used cooking oil taking place on August 24, 2019, the Respondent failed to clean up the spill. When inspectors visited the facility on or about September 18, 2019 and again on or about October 15, 2019, used cooking oil was observed to still be present in the roadside ditch. On a follow up inspection taking place on or about October 18, 2019, the inspector observed that the ditch had been vacuumed out, affected grass was cut and bagged, and oil-covered mud was removed.
- E. The Respondent failed to submit a complete application to discharge to waters of the state in violation of La. R.S. 30:2076(A)(3), LAC 33:IX.501.A, and LAC 33:IX.2501.A. Specifically, trucks used to transport used cooking oil are periodically pressure washed on a concrete slab in front of the facility. The concrete slab slopes towards the roadside ditch with no controls to prevent truck wash water from entering the ditch. Also, an inspection conducted by the Department on or about January 27, 2020 revealed that the facility had totes and a hose covered with used cooking oil exposed to stormwater. The Respondent does not have an LPDES permit to discharge pressure-washing wastewater or stormwater associated with industrial activities to waters of the state. On or about December 17, 2019, the Respondent stated in a letter received via email that the pressure-washing wastewater discharge has been eliminated.
- F. The Respondent caused and/or allowed the disposal of regulated solid waste without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, the September 18, 2019 inspection revealed approximately three hundred (300) gallons of used cooking oil was disposed onto the soil at the facility, as a result of the August 24, 2019 spill. The October 15, 2019 inspection revealed that the used cooking oil spill observed during the September 18, 2019 inspection was not cleaned properly and remained on the soil at the facility. The October 18, 2019 follow-up inspection revealed the Respondent had removed and bagged all used cooking oil contaminated soil from the area to be transported off site. On or about December 6, 2019, the Respondent sent documentation via email to the Department for the transport and disposal of the used cooking oil contaminated soil.

During the January 27, 2020 inspection, staining of used cooking oil was observed on the concrete and extended onto the soil near the loading/offloading area at the facility.

- G. The Respondent caused and/or allowed the discharge of storm water contaminated with used cooking oil to waters of the state in violation of La. R.S. 30:2075. Specifically, on or about January 27, 2020, an inspection conducted by the Department in response to a citizen complaint revealed a sheen of oil in a roadside ditch, which flows into Ponchitolawa Creek, originating from uncovered totes and an uncovered hose stored outside at the facility.
- H. The facility failed to implement an adequate Spill Prevention and Control (SPC) Plan in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.907.B. Specifically, on or about January 27, 2020, an inspection conducted by the Department in response to a citizen complaint revealed uncovered totes. The SPC Plan submitted to the Department on or about January 2, 2020 stated that unused totes were to be stored inside of Unit I, which is covered, instead of outside.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Solid Waste and Water Quality Regulations.

II.

To immediately cease, upon receipt of this **COMPLIANCE ORDER**, any unauthorized discharges from the Respondent's facility to waters of the state.

III.

If the Respondent does choose to discharge to waters of the state, the Respondent shall submit to the Water Permits Division a completed LPDES Permit Application within thirty (30) days after receipt of this **COMPLIANCE ORDER**. The completed LPDES Permit Application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:IX.Chapter 25. The three (3) sets (the original and two copies) of the completed permit application should be submitted to the Water Permits Division at the address below. A copy of the permit application should also be sent to the Enforcement Division. If the Respondent is issued an LPDES permit, the Respondent shall notify the Enforcement Division within fifteen (15) days of obtaining permit coverage.

Office of Environmental Services
Post Office Box 4313
Baton Rouge, LA 70821-4313
Attn: Water Permits Division
Re: Enforcement Tracking No. MM-CN-19-01152
Agency Interest No. 173988

IV.

If the Respondent does not choose to discharge to waters of the state, the Respondent shall, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.

V.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind, including but not limited to used cooking oil, at the Site or any other site that is not permitted to receive such waste.

VI.

To close, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the Site by removal of all solid waste to a permitted or authorized solid waste disposal facility and submit documentation of proper disposal to the Enforcement Division within fifteen (15) days of completion.

VII.

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
Attn: Crystal Vance
Re: Enforcement Tracking No. MM-CN-19-01152
Agency Interest No. 173988

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. MM-CN-19-01152
Agency Interest No. 173988

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 (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 Crystal Vance at (225) 219 - 3373 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 30th day of March, 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: Crystal Vance

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER & POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE				
Enforcement Tracking No.	MM-CN-19-01152	Contact Name	Crystal Vance	
Agency Interest (AI) No.	173988	Contact Phone No.	(225) 219 - 3373	
Alternate ID No.	LAU008257			
Respondent:	LCS RECYCLING LLC	Facility Name:	LCS Recycling	
	c/o Stephen Brindle	Physical Location:	22164 MCH Road Unit J	
	Agent for Service of Process			
	1525 Albert Street	City, State, Zip:	Mandeville, LA 70471	
Mandeville, LA 70448	Parish:	St. Tammany		
STATEMENT OF COMPLIANCE				
STATEMENT OF COMPLIANCE		Date Completed	Copy Attached?	
A written report was submitted in accordance with Paragraph VII of the "Order" portion of the COMPLIANCE ORDER .				
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraphs III and IV of the "Order" portion of the COMPLIANCE ORDER .				
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph VI of the "Order" portion of the COMPLIANCE ORDER .				
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER . Final compliance was achieved as of:				
SETTLEMENT OFFER (OPTIONAL)				
<i>(check the applicable option)</i>				
_____	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 NOTICE OF POTENTIAL PENALTY (MM-CN-19-01152), 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-CN-19-01152), 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)= \$ _____ • <i>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.</i> 			
_____	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (MM-CN-19-01152) 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: Crystal Vance

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 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.

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](#)

