

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LOTTE CHEMICAL LOUISIANA LLC

AI # 195519

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

* Settlement Tracking No.
* SA-AE-22-0029
*
* Enforcement Tracking No.
* AE-CN-21-00380
*
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*

SETTLEMENT

The following Settlement is hereby agreed to between Lotte Chemical Louisiana 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 monoethylene glycol manufacturing facility located in Westlake, Calcasieu Parish, Louisiana (“the Facility”).

II

On June 22, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00380 (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 TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00), of which One Thousand One Hundred Eighty-Seven and 30/100 Dollars (\$1,187.30) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

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

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing

to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

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

IX

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

LOTTE CHEMICAL LOUISIANA LLC

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

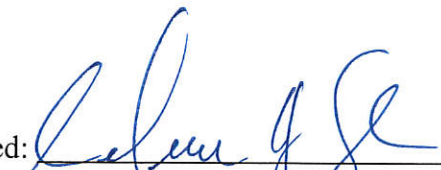
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Celena J. Cage, 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: 

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 22, 2021

CERTIFIED MAIL (7019 2970 0000 6032 9883)
RETURN RECEIPT REQUESTED

LOTTE CHEMICAL LOUISIANA LLC
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-21-00380
AGENCY INTEREST NO. 195519**

Dear Sir/Madam:

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 **LOTTE CHEMICAL LOUISIANA 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 Madison Kirkland at 225-219-3165 or Madison.Kirkland@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/MLK/mlk
Alt ID No. 0520-00488
Attachment



c: Lotte Chemical Louisiana LLC
 Kaili Patterson, Environmental Supervisor
 P.O. Box 1316
 Westlake, LA 70669

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

IN THE MATTER OF	*	
	*	
LOTTE CHEMICAL LOUISIANA LLC	*	ENFORCEMENT TRACKING NO.
CALCASIEU PARISH	*	
ALT ID NO. 0520-00488	*	AE-CN-21-00380
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	195519
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 **LOTTE CHEMICAL LOUISIANA 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 the Monoethylene Glycol Plant (the facility), a monoethylene glycol manufacturing (MEG) facility located at 2200 Bayou D'Inde Pass in Westlake, Calcasieu Parish, Louisiana. The Respondent currently operates under Title V Permit No. 0520-00488-V2 issued on May 31, 2019, with an expiration date of December 14, 2020. On June 11, 2020, the Respondent submitted a timely and complete Title V Permit renewal application to the Department and Title V Permit No. 0520-00488-V2 has been administratively continued. Additionally, the Respondent operates under Prevention of Significant Deterioration (PSD) Permit No. PSD-LA-801 (M-1) issued on May 31, 2019. The Respondent's facility is subject to program level 3 Chemical Accident Prevention Provisions (CAPP).

II.

On or about October 17, 2020, to April 11, 2021, the Respondent experienced an unauthorized discharge (Incident No. T202156). In correspondence dated May 5, 2021, the Respondent reported that on August 26, 2020, the MEG unit was shut down due to Hurricane Laura. After process material within the unit was removed, operations removed several blind flanges and opened vent valves on the reabsorber tower, which remained open during the shutdown. Prior to start-up of the unit, operations replaced all of the blind flanges and closed almost all of the vent valves; however, the reabsorber tower vent (RLP0009) was inadvertently left open. The Respondent started up the unit on October 17, 2020 at approximately 11:00 AM. On April 11, 2021 at approximately 11:24 AM, an operator was completing a routine quarterly car seal check and found the 2-inch valve in the MEG unit reabsorber tower vent open. The operator immediately closed the vent valve, stopping the unauthorized emissions. According to the May 5, 2021 and June 7, 2021 unauthorized discharge reports, the incident occurred for approximately 176 days and resulted in a release of the following pollutants:

POLLUTANT	AMOUNT RELEASED (lbs)	AMOUNT RELEASED (tons)
Ethylene	4,581,204	2,291.6
Methane	2,110,226	1,055.1
Ethane	25,539	12.8
Carbon Dioxide	1,783,812	891.9

The Respondent stated in the May 5, 2021 unauthorized discharge report, that the following measures will be implemented to prevent reoccurrences:

- establish a formal, standardized shift turnover process across the site;
- review and modify the existing Pre-Startup Safety Review (PSSR) procedure to include requirements following the significant downtime, including clearly defined responsibilities and accountability;
- develop and implement procedures and forms for items that are not included in shift handover policy and are not a part of lockout-tagout (LOTO) procedures;
- establish a process to validate operating conditions and address conditions that are outside of operating envelopes, including formalized troubleshooting guides;
- establish a process to ensure operators know what trends need to be completed prior to and after a long-term unit downtime;
- increase frequency of audits of rounds, including operator rounds, car seal rounds; and

- conduct a third party audit to determine if the reabsorber can handle full vacuum and whether opening valves during downtime can take place.

In correspondence dated June 7, 2021, the Respondent stated the root cause of the release was the failure to have effective processes in place to ensure that all vent valves opened during any MEG unit shutdown are closed prior to subsequent startup of the MEG unit, and the failure to identify when the MEG unit operating conditions are outside of typical ranges.

III.

On or about April 14, 2021, the Department conducted an incident investigation of the facility in response to the incident described in Paragraph II to determine the degree of compliance with the Act, the Air Quality Regulations, Title V Air Permit No. 0520-00488-V2, and PSD Permit No. PSD-LA-801 (M-1). While the investigation by the Department is not yet complete, the following violations were found during the course of the inspection and subsequent file review performed on or about June 2, 2021:

- A. The Respondent failed to use and diligently maintain air pollution control facilities, any device or contrivance, operating procedure or abatement scheme used to prevent or reduce air pollutants, in proper working order whenever any emissions are being made which can be controlled by the facility. Specifically, the Respondent failed to close the reabsorber tower vent (RLP0009) valve prior to startup of operations, which allowed the unauthorized release of pollutants into the atmosphere from October 17, 2020, until the date of discovery on April 11, 2021. This is a violation of LAC 33:III.905.A, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to control emissions by a thermal oxidizer or a flare from the Reabsorber Tower Vent (RLP0009), which is a Distillation Operation Vent (CRG0006), to meet the requirements of NSPS Subpart NNN, which was determined as best available control technology (BACT) in PSD Permit No. PSD-LA-801 (M-1). Specifically, the incident occurred for approximately 176 days and resulted in the release of approximately 2,291 tons of ethylene directly to the atmosphere from RLP0009, bypassing the fuel gas system. This is a violation of 40 CFR 60.662(b), which language has been adopted as a Louisiana regulation in LAC 33:III.3003, Specific Requirement Nos. 14 and 16 of Title V Permit No. 0520-00488-V2, PSD Permit No. PSD-LA-801(M-1), LAC 33:III.509, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- C. The Respondent failed to notify the Department within twenty-four (24) hours after learning of an unauthorized discharge that exceeded a reportable quantity. Specifically, the Respondent discovered the October 17, 2020, through April 11, 2021 unauthorized discharge (T202156) on April 11, 2021, at 11:24 AM; however, the facility representative made the initial notification on April 13, 2021, at 2:38 PM. This is a violation of Specific Requirement No. 264 of Title V Air Permit No. 0520-00488-V2, LAC 33:I.3917.A, LAC 33:III.927.A, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- D. The Respondent failed to develop and implement written operating procedures consistent with process safety information to safely operate the process, including startup after turnaround or emergency shutdown and normal operations. Specifically, the Reabsorber Tower is not intended to operate with the vents open to atmosphere; however, it was operated with a vent opened to atmosphere for 176 days. The Respondent failed to develop and/or implement operating procedures to ensure that the Reabsorber Tower was operated as intended, with the vents closed. In correspondence dated May 5, 2021 and June 7, 2021, the Respondent stated that in order to prevent reoccurrence, there is a need to establish a process to validate operating conditions and address conditions that are outside of operating envelopes, including formalized troubleshooting guides and to establish a formal, standardized shift turnover process across the facility. The failure to develop and/or implement written operating procedures to safely operate the process is a violation of 40 CFR 68.69(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, Specific Requirement No. 204 of Title V Air Permit No. 0520-00488-V2, LAC33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- E. The Respondent failed to include safe upper and lower limits for such items as temperatures, pressures, flows or compositions and an evaluation of the consequences of deviation from those limits in the process safety information pertaining to the technology of the process. Specifically, in correspondence dated May 5, 2021, the Respondent stated that in order to prevent a reoccurrence, a third party audit is needed to determine if the reabsorber can handle full vacuum and whether the opening of valves during downtime can take place. The failure to establish lower pressure limits for the reabsorber and consequences of deviation thereof is a violation of 40 CFR 68.65(c)(1)(iv) and 40 CFR 68.65(c)(1)(v), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, Specific Requirement No. 194 of Title V Air Permit No. Title V Permit No. 0520-00488-V2, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

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 Act, Air Quality Regulations, Chemical Accident Prevention Provisions (CAPP), and all applicable permits.

II.

To submit to the Enforcement Division, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, documentation that includes the completion of the corrective actions to be taken in order to prevent reoccurrences as described in paragraph II of the **FINDINGS OF FACT** portion of this **COMPLIANCE ORDER**.

III.

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 violation(s) 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: Madison Kirkland
Re: Enforcement Tracking No. AE-CN-21-00380
Agency Interest No. 195519

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. AE-CN-21-00380
Agency Interest No. 195519

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 Madison Kirkland at (225) 219-3165 or Madison.Kirkland@la.gov 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.

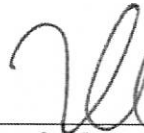
The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement

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 28th day of June, 2021.



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: Madison Kirkland

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

CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-21-00380	Contact Name	Madison Kirkland
Agency Interest (AI) No.	195519	Contact Phone No.	(225) 219-3165
Alternate ID No.	0520-000488	Contact Email	Madison.Kirkland@la.gov
Respondent:	LOTTE CHEMICAL LOUISIANA LLC	Facility Name:	Monoethylene Glycol Plant
	c/o C T Corporation System	Physical Location:	2200 Bayou D'Inde Pass
	Agent for Service of Process	City, State, Zip:	Westlake, LA 70669
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	Calcasieu Parish

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 60 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II 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)

(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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00380), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00380), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00380) 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: Madison Kirkland		

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
MAJOR	\$32,500	\$20,000	\$15,000
	to \$20,000	to \$15,000	to \$11,000
MODERATE	\$11,000	\$8,000	\$5,000
	to \$8,000	to \$5,000	to \$3,000
MINOR	\$3,000	\$1,500	\$500
	to \$1,500	to \$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 <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:I Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:I Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

