

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

NFT GROUP, LLC

AI # 230121

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

\* Settlement Tracking No.  
\* SA-AE-24-0009  
\*  
\* Enforcement Tracking No.  
\* AE-CN-22-00003  
\*  
\*  
\* Docket No. 2023-7722-DEQ  
\*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between NFT Group, 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 was contracted to perform a renovation of a facility located in New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On April 20, 2022, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-22-00003 (Exhibit 1).

III

In response to the Consolidated Compliance Order & Notice of Potential Penalty, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures

and/or penalties.

V

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 THIRTEEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$13,500.00), of which Seven Hundred Twenty-Seven and 45/100 Dollars (\$727.45) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

VI

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 Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII

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

## VIII

This Settlement Agreement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

## IX

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.

## X

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 Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

## XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department

of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XII

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

XIII

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.

**NFT GROUP, LLC**

BY: \_\_\_\_\_

(Signature)

(Printed)

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this 24th day of July, 20 24, at New Orleans, Louisiana

*[Handwritten Signature]*

NOTARY PUBLIC (ID # 90068)

Michael Shannon Blackwell

Notary Public

State of Louisiana

(ID # 90068 printed)

My commission is for life.

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

Aurelia S. Giacometto, Secretary

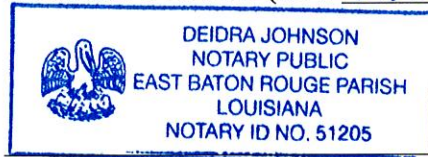
BY: \_\_\_\_\_

~~Jerrie "Jerry" Lang, Assistant Secretary  
Office of Environmental Compliance~~

THUS DONE AND SIGNED in duplicate original before me this 28th day of October, 20 24, at Baton Rouge, Louisiana

*[Handwritten Signature]*

NOTARY PUBLIC (ID # 51205)



(stamped or printed)

*Lifetime Commission*

Approved: \_\_\_\_\_

Jerrie "Jerry" Lang, Assistant Secretary



**JOHN BEL EDWARDS**  
GOVERNOR

**CHUCK CARR BROWN, Ph.D.**  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

APR 20 2022

CERTIFIED MAIL (7020 1290 0001 0463 1729)  
RETURN RECEIPT REQUESTED

**NFT GROUP, LLC**  
c/o Michael Blackwell  
Agent for Service of Process  
1100 Poydras St - Suite 1100  
New Orleans, LA 70163

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-22-00003  
AGENCY INTEREST NO. 230121**

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 **NFT GROUP, LLC (RESPONDENT)** for the violations described therein.

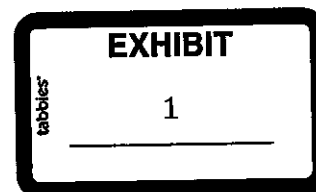
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Elisabeth Pigott at (225) 219-3378 or [Elisabeth.Pigott@la.gov](mailto:Elisabeth.Pigott@la.gov).

Sincerely,

Angela Marse  
Administrator  
Enforcement Division

AM/EHP/ehp  
Alt ID No. N/A  
Attachment



c: **NFT Group, LLC**  
**c/o Nauman Thomas**  
**831 Elysian Fields Ave -Suite C**  
**New Orleans, LA 70117**

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

**IN THE MATTER OF**

**NFT GROUP, LLC  
ORLEANS PARISH  
ALT ID NO. N/A**

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

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**ENFORCEMENT TRACKING NO.**

**AE-CN-22-00003**

**AGENCY INTEREST NO.**

**230121**

**CONSOLIDATED  
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **NFT GROUP, 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 was contracted by Jardin Royale, LLC to perform a renovation at 619 Royal Street in New Orleans, Orleans Parish, Louisiana (the facility). The facility is a four (4) story commercial building approximately 6,904 square feet in size. Prior to the renovation, the facility was an antique store on the first floor only.

**II.**

On or about July 20, 2021, the Department conducted an investigation at the facility in response to a citizen's complaint (Incident No. 203701) which alleged that a construction company was renovating the facility with possible asbestos removal with no containment or worker protection in place.



### III.

During the course of the investigation, the Department's inspector observed renovation activities, but could not communicate with personnel observed on-site because they did not speak English. At the time of investigation, a Notification of Demolition and Renovation and Asbestos-Contaminated Debris Activity Form, AAC-2(a) or AAC-2(b), had not been submitted to the Department. The Department's inspector determined that the property owner was Jardin Royale, LLC using the Orleans Parish Tax Assessor's website. On August 24, 2021, the Department's inspector contacted Zachary Kupperman, a representative of Jardin Royale, LLC. At that time, the Department's inspector informed Mr. Kupperman that the Department had not received an AAC-2 notification. Mr. Kupperman stated that he had an inspection completed to test for possible asbestos, and that he would send the report to the Department's inspector. The Department's inspector made multiple unsuccessful attempts to contact Mr. Kupperman to follow-up. As of October 7, 2021, the Department had not received the asbestos inspection report or AAC-2 form. On October 11, 2021, the Department's inspector conducted a follow-up inspection at the facility. During the inspection, a representative of the Respondent, Nauman Thomas, was present. Mr. Thomas told the Department's inspector that the building plans were to "white box" the first floor for commercial space, and the third and fourth floors would be converted into apartments.

### IV.

In electronic correspondence dated December 6, 2021, the Department requested documentation of the facility's asbestos inspection. In electronic correspondence dated December 6, 2021, Mr. Kupperman sent the Department the Phase 1 Environmental Site Assessment report for the facility dated March 3, 2020. In electronic correspondence dated December 7, 2021, the Department informed Mr. Kupperman that the Phase 1 assessment did not constitute an accredited asbestos inspection of the facility, and Mr. Kupperman confirmed that no asbestos inspection had been performed. On December 7, 2021, the Department informed Mr. Kupperman that the renovation of the facility must not proceed until an asbestos inspection has been performed by an accredited inspector. On December 15, 2021, Mr. Kupperman emailed an asbestos inspection report of the facility conducted on December 14, 2021, which found the remaining building materials were wood, brick, and mortar, and that there were no suspect asbestos-containing materials on-site at that time. Since no inspection was conducted or notification provided prior to the renovation at the facility, all debris from the renovation activities prior to the December 14, 2021, asbestos inspection is categorized as asbestos-contaminated debris (ACD), which contains regulated asbestos-containing material (RACM), in accordance with LAC 33:III.5151.F.1.d.

V.

In a teleconference with representatives of the Department and Mr. Kupperman on December 16, 2021, Mr. Kupperman stated that when Jardin Royale, LLC purchased the facility, the first floor room facing Royal Street was an antique store, and the rest of the building was mostly gutted. He stated that the renovation began in May 2021 and was ongoing. Mr. Kupperman clarified that the December 14, 2021 asbestos inspection included all four (4) floors. He stated that the waste produced from the renovation had been removed from the property, and that he did not know where it was disposed of.

VI.

On or about July 20, 2021, and October 11, 2021, the Department conducted inspections, in response to a citizen's complaint, to determine the degree of compliance with the Act and Air Quality Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections and subsequent file review conducted on April 7, 2022:

- A. The Respondent failed to provide the Office of Environmental Services with typed notice of intent to renovate by submitting the AAC-2 and applicable fees prior to beginning the renovation of the facility. In a teleconference meeting on December 16, 2021, Mr. Kupperman stated that the renovation began in May 2021, and was ongoing. The Department has no record of receiving an AAC-2 and fees for the renovation of the facility. This is a violation of LAC 33:III.5151.F.2.a, LAC 33:III.5151.F.1.i, and La. R.S. 30:2057(A)(2).
- B. Prior to commencement of a renovation activity, the owner/operator must either assume that Regulated Asbestos Containing Material (RACM) is present or an accredited inspector must thoroughly inspect the affected facility where the activity will occur for the presence of asbestos. In electronic correspondence dated December 7, 2021, the owner stated an asbestos inspection was not conducted prior to the renovation of the facility, which began in May 2021. The failure to thoroughly inspect the affected facility or part of the facility where the activity will occur for the presence of asbestos is a violation of LAC 33:III.5151.F.1 and La. R.S. 30:2057(A)(2). On December 15, 2021, Mr. Kupperman emailed the Department an asbestos inspection report of the facility conducted on December 14, 2021, which stated that the remaining building

materials were wood, brick, and mortar, and that there were no suspect asbestos-containing materials on-site at that time.

- C. The Respondent failed to perform the renovation with an accredited asbestos contractor/supervisor present or with accredited asbestos workers. Specifically, according to Department asbestos accreditation records, the Respondent does not have accredited asbestos workers or contractor/supervisors employed with their company. This is a violation of LAC 33.III.5151.F.3.h 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 Air Regulations.

#### **II.**

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all waste disposal records for the debris generated by the Respondent's renovation of the facility prior to December 14, 2021.

#### **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 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: Elisabeth Pigott  
Re: Enforcement Tracking No. AE-CN-22-00003  
Agency Interest No. 230121

**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-22-00003  
Agency Interest No. 230121

**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 violations 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 violations, 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 violations 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 violations described herein. Written comments may be filed regarding the violations and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

**II.**

Prior to the issuance of additional appropriate enforcement actions, you may request a meeting with the Department to present any mitigating circumstances concerning the violations. If you would like to have such a meeting, please contact Elisabeth Pigott at (225) 219-3378 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 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 and 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.

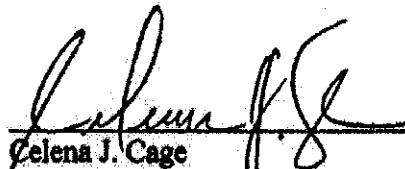
IV.

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 violations 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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. 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 20<sup>th</sup> day of April, 2022.


  
\_\_\_\_\_  
Celena J. Cage  
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: Elisabeth Pigott

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-22-00003	Contact Name	Elisabeth Pigott
Agency Interest (AI) No.	230121	Contact Phone No.	(225) 219-3378
Alternate ID No.	N/A		
Respondent:	NFT Group, LLC	Facility Name:	619 Royal St. Building
	c/o Michael Blackwell	Physical Location:	619 Royal St.
	Agent for Service of Process		
	1100 Poydras St - Suite 1100	City, State, Zip:	New Orleans, LA 70130
	New Orleans, LA 70163	Parish:	Orleans

**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 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II 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(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? 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)*

_____	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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00003), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
_____	<p>In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY (AE-CN-22-00003), 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. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion.</p> <ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• <b>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.</b></li> </ul> <p>The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER &amp; NOTICE OF POTENTIAL PENALTY (AE-CN-22-00003) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>



CERTIFICATION STATEMENT		
<p><i>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.</i></p>		
Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>		
<p>Louisiana Department of Environmental Quality                      Office of Environmental Compliance                      Enforcement Division                      P.O. Box 4312                      Baton Rouge, LA 70821                      Attn: Elisabeth Pigott</p>		

**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 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

**Degree of Risk to Human Health or Property**

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

**Nature and Gravity of the Violation**

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

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

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum} ))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

**WHAT IS A BEP?**

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

**WHAT HAPPENS IF MY OFFER IS REJECTED?**

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

**WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?**

Settlement Offers .....	searchable in <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 33:1 Chapter 7</u>
Beneficial Environmental Projects .....	<u>LAC 33:1 Chapter 25</u>
	<u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

