

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

PRATT PAPER (LA), LLC

AI # 152037

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

* Settlement Tracking No.
* SA-WE-23-0042
*
* Enforcement Tracking No.
* WE-CN-21-00334
*
*
* Docket No. 2022-8032-DEQ
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Pratt Paper (LA), 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 recycled paper and packaging company located in Shreveport, Caddo Parish, Louisiana (“the Facility”).

II

On August 6, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-21-00334 (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 TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00), of which Six Hundred Eighty-Eight and 59/100 Dollars (\$688.59) 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 Caddo 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 ten (10) 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. 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.

PRATT PAPER (LA), 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
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, 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: 

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

AUG 06 2021

CERTIFIED MAIL (7020 1810 0000 5261 0607)
RETURN RECEIPT REQUESTED

PRATT PAPER (LA), LLC
c/o Corporation Service Company
Agent for Service of Process
501 Louisiana Avenue
Baton Rouge, Louisiana 70802

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-CN-21-00334
AGENCY INTEREST NO. 152037**

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 **PRATT PAPER (LA), LLC (RESPONDENT)** for the violations described therein.

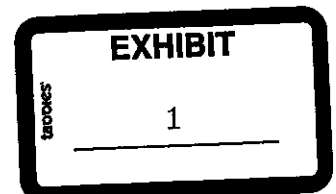
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Bernie Boyett at (225) 219-0783.

Sincerely,

Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/BKB/bkb
Alt ID No. LAR05P195
Attachments



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

IN THE MATTER OF	*	
	*	
PRATT PAPER (LA), LLC	*	ENFORCEMENT TRACKING NO.
CADDO PARISH	*	
ALT ID NO. LAR05P195	*	WE-CN-21-00334
	*	
	*	AGENCY INTEREST NO.
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	152037
ENVIRONMENTAL QUALITY ACT,	*	
La. R.S. 30:2001, <u>ET SEQ.</u>	*	

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **PRATT PAPER (LA), 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 recycled paper and packaging company located at 10429 Richard Pratt Drive in Shreveport, Caddo Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) Multi-Sector General Permit (MSGP) for Storm Water Discharges Associated with Industrial Activities LAR050000, and was specifically assigned permit number LAR05P195, with an effective date of September 6, 2016. LPDES MSGP LAR05P195 expired on May 8, 2021, and was administratively continued. Under the terms and conditions of LPDES MSGP LAR05P195, the

Respondent is authorized to discharge storm water associated with industrial activities into Bayou Pierre, thence into Red River, waters of the state.

II.

An inspection conducted by the Department on or about May 26, 2020, revealed that the Respondent failed to conduct quarterly benchmark sampling in 2017 and 2019 for Outfalls 001 and 002 in accordance with LPDES MSGP LAR05P195 as follows:

Monitoring Period	Outfall	Parameter
1 st Qtr. 2017	001	Chemical Oxygen Demand (COD)
	002	COD
		Total Suspended Solids
		Total Recoverable Aluminum
		Total Copper
		Total Recoverable Iron
		Total Lead
2 nd Qtr. 2017	002	Total Zinc
		Total Copper
		Total Lead
3 rd Qtr. 2017	002	Total Zinc
		COD
		Total Suspended Solids
		Total Copper
2 nd Qtr. 2019	002	Total Lead
		Total Zinc
		Chemical Oxygen Demand (COD)
		COD
		Total Suspended Solids
		Total Recoverable Aluminum
		Total Copper
3 rd Qtr. 2019	002	Total Recoverable Iron
		Total Lead
		Total Zinc
		Chemical Oxygen Demand (COD)
		COD
		Total Suspended Solids
		Total Recoverable Aluminum
3 rd Qtr. 2019	001	Total Copper
		Total Recoverable Iron
		Total Lead
		Total Zinc
		Chemical Oxygen Demand (COD)
		COD

Each failure to sample is a violation of (Best Management Practices, Limitations, and Monitoring Requirements, Table 3, Sector B, Page 30 of 122 and Sector N, Page 38 of 122; and Standard

Permit Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

III.

An inspection conducted by the Department on or about May 26, 2020, and a subsequent file review conducted by the Department on or about May 6, 2021, revealed that the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) for Outfalls 001 and 002 for the benchmark monitoring years of 2017 and 2019. Each failure to submit a DMR is a violation of LPDES MSGP LAR05P195 (Section 5.5, Pages 51 and 52 of 122; and Standard Permit Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.2701.L.4.a.

IV.

An inspection conducted by the Department on or about May 26, 2020, revealed that the Respondent failed to follow approved laboratory standards. Specifically, storm water samples collected from Outfalls 001 and 002 in 2019 exceeded the preservation temperature of 6°C. One of the samples for the first quarter of 2019 was 8.1°C. The samples collected in the fourth quarter of 2019 for Outfalls 001 and 002 were 12.1°C and 12.6°C, respectively. Additionally, one of the first quarter 2020 samples was 10.8°C. Each failure to utilize approved laboratory standards is a violation of LPDES MSGP LAR05P195 (Standard Permit Conditions for LPDES Permits, Sections A.2 and C.5.a), La. R. S. 30:2076 (A)(3), and LAC 33:IX.2701.J.4.

V.

An inspection conducted by the Department on or about May 26, 2020, revealed that the Respondent failed to perform “Good Housekeeping” procedures as required by LPDES MSGP LAR05P195. Specifically, the inspection revealed that the recycled paper was not being maintained in its designated area and was entering waters via Outfalls 001 and 002. Failure to perform “Good Housekeeping” procedures is a violation of LPDES MSGP LAR05P195 (Section 3.1.2, Page 21 of 122; and Standard Permit Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076 (A)(3), and LAC 33:IX.501.A.

VI.

An inspection conducted by the Department on or about May 26, 2020, revealed that the Respondent had an unauthorized discharge of process wastewater. Specifically, process wastewater was draining from under the wall of the waste paper storage area on the east side of

the facility and entering a storm water drainage ditch that flows to Outfall 001. The unauthorized discharge of process wastewater into waters of the state is a violation of La. R.S. 30:2075.

VII.

A file review conducted by the Department on or about May 6, 2021, revealed that the Respondent had an unauthorized discharge of process wastewater. Specifically, on November 15, 2019, a 326,000-gallon anaerobic treatment tank in the facility's wastewater pretreatment system structurally failed and caused the failure of an adjacent 500,000-gallon anaerobic treatment tank. An unknown amount of wastewater left the property via the facility's storm water outfall. The tanks contained industrial process wastewater from the recycled paper mill and anaerobic solids. The unauthorized discharge of process wastewater into waters of the state is a violation of La. R.S. 30:2075.

VIII.

A file review conducted by the Department on or about May 6, 2021, revealed that the Respondent introduced into a publicly owned treatment works (POTW) pollutants that caused pass through and interference. Specifically, the Respondent allowed industrial wastewater to be directly discharged into the collection system of the Town of Logansport's POTW for 50 days, commencing on December 9, 2019, and terminating on January 27, 2020. The quantity and volume caused interference in the operation of the POTW. According to a Representative of the Town of Logansport, approximately 300,000 gallons of industrial wastewater was discharged into the POTW per day. The introduction into a POTW of pollutants that cause pass through and interference is a violation of La. R.S. 30:2076 (A)(3) and LAC 33:IX.6109.A.1.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with LPDES permit LAR05P195 and the Water Quality Regulations including, but not limited to, sampling, submitting DMRs, utilizing approved laboratory standards, performing "Good Housekeeping" procedures, ceasing all unauthorized discharges, and ceasing the introduction of pollutants into any POTW that cause pass through and interference.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, properly completed DMRs for the monitoring periods mentioned in Paragraph III of the Findings of Fact portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."

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
Attention: Bernie Boyett
Enforcement Tracking No. WE-CN-21-00334
Agency Interest No. 152037

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. WE-CN-21-00334
Agency Interest No. 152037

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's (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 Bernie Boyett at (225) 219-0783 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 6th day of August, 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: Bernie Boyett



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.	WE-CN-21-00334	Contact Name	Bernie Boyett
Agency Interest (AI) No.	152037	Contact Phone No.	(225) 219-0783
Alternate ID No.	LAR05P195		
Respondent:	PRATT PAPER (LA), LLC	Facility Name:	Pratt Paper (LA)
	c/o Corporation Service Company	Physical Location:	10429 Richard Pratt drive
	Agent for Service of Process		
	501 Louisiana Avenue	City, State, Zip:	Shreveport, LA 71115
	Baton Rouge, Louisiana 70802	Parish:	Caddo

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 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 NOTICE OF POTENTIAL PENALTY (WE-CN-21-00334) , 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 (WE-CN-21-00334) , 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)= \$ _____ <p style="text-align: center;"><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></p>
	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-21-00334) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

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
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:		
<p>Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Bernie Boyett</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
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 .

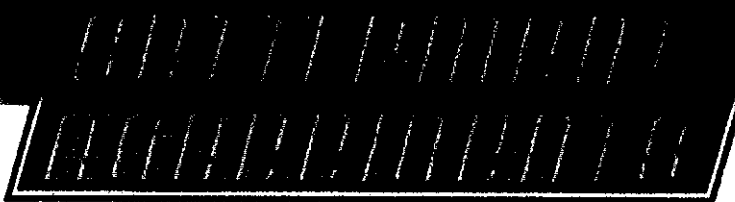
Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

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.





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

