

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

QUALITY LIQUID FEEDS, INC.

AI # 81810

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

* **Settlement Tracking No.**
* **SA-MM-24-0003**
*
* **Enforcement Tracking No.**
* **MM-CN-20-00765**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Quality Liquid Feeds, Inc. (“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 corporation that owns and/or operates a molasses liquid feed manufacturing mill located in Port Barre, St. Landry Parish, Louisiana (“the Facility”).

II

On January 28, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-20-00765 (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 SIXTEEN THOUSAND AND NO/100 DOLLARS (\$16,000.00), of which One Thousand Seven Hundred Twenty-Three and 77/100 Dollars (\$1,723.77) 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).

V

Respondent further agrees that the Department may consider the inspection report(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.

VI

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.

VII

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.

VIII

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

IX

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

X

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. 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.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in

accordance with the terms of this Settlement Agreement.

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.

QUALITY LIQUID FEEDS, INC.

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

BY: _____
Aurelia S. Giacometto, Secretary

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: *Aurelia S. Giacometto*
Aurelia S. Giacometto, Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

JAN 28 2021

CERTIFIED MAIL (7019 1640 0001 2617 0508)
RETURN RECEIPT REQUESTED

QUALITY LIQUID FEEDS, INC.
c/o Cory K Berg
Agent for Service of Process
3586 State Road 23
Dodgeville, WI 53533

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-20-00765
AGENCY INTEREST NO. 81810**

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 **QUALITY LIQUID FEEDS, INC. (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 Brendan Marsh at (225) 219-3372 or brendan.marsh@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/BMM/kwf
Alt ID Nos. LAR05N838; LAR000101323
Attachment



c: Quality Liquid Feeds, Inc.
P.O. Box 1240
Port Barre, LA 70577

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

IN THE MATTER OF	*	
	*	
QUALITY LIQUID FEEDS, INC.	*	ENFORCEMENT TRACKING NO.
ST. LANDRY PARISH	*	
ALT ID NOs. LAR05N838; LAR000101323	*	MM-CN-20-00765
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	81810
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 **QUALITY LIQUID FEEDS, INC. (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 Quality Liquid Feeds Port Barre Plant, a molasses liquid feed manufacturing mill, located at 143 Frisco Street in Port Barre, St. Landry Parish, Louisiana (facility). The Respondent is registered with the Department as a large quantity generator (LQG) of hazardous waste and operates under EPA identification number LAR000101323. The Respondent submitted a certification to close the EPA ID number, which was received by the Department on or about May 1, 2019. The Respondent was reauthorized under Louisiana Pollutant Discharge Elimination System (LPDES) Multi Sector General Permit For Storm Water Discharges Associated With Industrial Activities (MSGP) LAR05N838 on September 6, 2016. LPDES MSGP LAR05N838 will expire on May 8, 2021. Under the terms and conditions of LPDES MSGP LAR05N838, the Respondent is authorized to discharge

stormwater associated with industrial activities to Bayou Teche (Subsegment 060301), all waters of the state.

II.

On or about March 27, 2020, and April 15, 2020, the Department conducted inspections at the above referenced facility, as a result of a citizen's complaint, to determine the degree of compliance with the Act and the supporting Regulations. On or about June 2, 2020, the Department conducted a routine I.QG hazardous waste inspection to determine the degree of compliance with the Act and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent caused and/or allowed the disposal of regulated solid waste without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, during the March 27, 2020 inspection, the deposition of molasses was observed on the ground in the tank farm area, across the gravel road on the west side of the facility, on the front yard of the neighboring citizen's property, and outside the facility perimeter fence near Brunner road. The complainant indicated the molasses had caused vegetative distress and erosion. A follow-up inspection performed on or about April 15, 2020, revealed that the Respondent had scraped the stained soil from the neighboring front yard, the gravel road on the west side of the facility, and outside the perimeter fence at Brunner road. The Respondent removed the stained soil and applied cover with new soil in these areas. However, the inspection also revealed adequate cleanup had not taken place in the tank farm area. Additionally, documentation of proper excavation and disposal was not provided to the Department. Another inspection performed on or about June 2, 2020, revealed numerous areas of molasses stained soils were still present in the tank farm area. Additionally, a representative of the Respondent stated during the inspection that the areas of stained soil had been there several years, and the Respondent intended to let the spilled molasses naturally decay into the soil. A representative of the Respondent submitted responses dated November 19, 2020, and December 29, 2020, but the responses were not sufficient to verify compliance.

- B. The Respondent failed to determine if generated solid waste is a hazard, in violation of LAC 33:V.1103.B. Specifically, the June 2, 2020 inspection revealed the following wastes are generated by the Respondent:
- a. A representative of the Respondent stated less than one (1) aerosol can is generated per month, and the aerosol cans are disposed of without proper determination of hazardous characteristics.
 - b. A representative of the Respondent stated that used fluorescent bulbs are generated and stored onsite until a box of fluorescent bulbs are disposed of at St. Landry Parish Landfill without determining hazardous characteristics. The representative also stated that the used fluorescent bulbs are brought to St. Landry Parish Landfill for disposal as residential waste, and the landfill is not informed that the used fluorescent bulbs are generated by the Respondent.

A representative of the Respondent submitted a response dated January 8, 2021, but the response was not sufficient to verify compliance.

- C. The Respondent caused and/or allowed the discharge of molasses to waters of the state in violation of La. R.S. 30:2076(A)(1)(a) and LAC 33:IX.501.C. Specifically, on March 27, 2020, it was observed by an inspector that molasses had leaked from tanks on the western side of the facility and flowed across the road onto neighboring properties and into a ditch across Bruna Lane, which drains into Bayou Teche (Subsegment 060301), all waters of the state.
- D. The Respondent failed to prepare and implement a Spill Prevention and Control (SPC) Plan in violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.905.B. Specifically, the facility does have a Spill Prevention Control and Countermeasures (SPCC) Plan, however, the facility's SPCC Plan does not contain a certification that it addresses State regulations, nor does it address other materials with a reportable spill quantity such as sulfuric acid and phosphoric acid stored at the facility.
- E. The Respondent failed to sample and monitor in violation of La. R.S. 30:2076(A)(3), LAC 33:IX.2701.A, and LPDES MSGP LAR05N838 (Parts 3.2.3, 3.2.5, and 8, Section A.2). Specifically, the Respondent failed to conduct quarterly benchmark monitoring for the years of 2017 and 2019 in violation of LPDES MSGP LAR05N838, Part 3.2.3

and failed to conduct quarterly visual monitoring in violation of LPDES MSGP LAR05N838, Part 3.2.5.

- F. The Respondent failed to prepare and implement an adequate Stormwater Pollution Prevention Plan (SWPPP) in violation of La. R.S. 30:2076(A)(3), LAC 33:IX.2701.A, and LPDES MSGP LAR05N838 (Parts 4.3.2.a, 5.1, 5.2, 6.U.2, and 8, Section A.2). Specifically:
- a. The Respondent failed to label all stormwater conveyances including ditches, pipes, and swales, failed to label both Outfalls, and failed to label the stormwater retention pond on the site map in the Respondent's SWPPP. (LAR05N838, Part 4.3.2.a and Attachment B2 of the SWPPP)
 - b. The Respondent failed to conduct Routine Site Inspections on a quarterly basis. (LAR05N838, Part 5.1 and SWPPP, Part 4.6.1 and Attachment F1)
 - c. The Respondent failed to conduct Annual Comprehensive Site Evaluations on an annual basis. (LAR05N838, Part 5.2)
 - d. The Respondent failed to address pest control in the employee training program. (LAR05N838, Part 6.U.3 and SWPPP, Part 4.5 and Attachment G1)

III.

The Respondent failed to submit Discharge Monitoring Reports (DMRs) for quarterly benchmark monitoring during the years of 2017 and 2019 in violation of La. R.S. 30:2076(A)(3), LAC 33:IX.2701.L.4, and LPDES MSGP LAR05N838 (Parts 5.5 and 8, Section 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 Solid Waste, Water Quality, and Hazardous Waste Regulations.

II.

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

III.

To excavate, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all areas of visibly stained soil and gravel described in Findings of Fact II.A, as well as any other areas of visibly stained soils not specifically referenced within this **COMPLIANCE ORDER**.

IV.

To remove, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all solid waste to a permitted or authorized solid waste disposal facility. Documentation of proper disposal of the regulated solid waste shall be submitted to the Enforcement Division within fifteen (15) days of completion.

V.

To institute procedures, immediately after receipt of this **COMPLIANCE ORDER**, that ensure hazardous waste determinations are completed for the wastes specified in Findings of the Fact Paragraph II.B, and any other waste generated by the Respondent that warrants such determination not listed in this **COMPLIANCE ORDER**. All waste shall be disposed of in accordance with the Hazardous Waste or Solid Waste regulations, whichever is applicable.

VI.

To develop and implement, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, an adequate Spill Prevention and Control Plan (SPC) as outlined in LAC 33:IX.907 and submit a copy to the Enforcement Division within forty-five (45) days after receipt of this **COMPLIANCE ORDER**.

VII.

To develop and implement, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, an adequate and complete SWPPP as outlined in LPDES MSGP LAR05N838 Parts 4 and 6.U and submit a copy to the Enforcement Division within forty-five (45) days after receipt of this **COMPLIANCE ORDER**.

VIII.

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."

IX.

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: Brendan Marsh
Re: Enforcement Tracking No. MM-CN-20-00765
Agency Interest No. 81810

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-20-00765
Agency Interest No. 81810

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 (I.a. R.S.

49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed

regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Brendan Marsh at (225) 219-3372 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 January, 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: Brendan Marsh



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE

Enforcement Tracking No.	MM-CN-20-00765	Contact Name	Brendan Marsh
Agency Interest (AI) No.	81810	Contact Phone No.	(225) 219-3372
Alternate ID Nos.	LAR05N838; LAR000101323		
Respondent:	Quality Liquid Feeds, Inc.	Facility Name:	Quality Liquid Feeds
	c/o Cory K Berg	Physical Location:	143 Frisco Street
	Agent for Service of Process		
	3586 State Road 23	City, State, Zip:	Port Barre, LA 70577
	Dodgeville, WI 53533	Parish:	St. Landry

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IX of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department after receipt of the COMPLIANCE ORDER in accordance with Paragraphs IV, VI, VII, and VIII 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 NOTICE OF POTENTIAL PENALTY MM-CN-20-00765, 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 NOTICE OF POTENTIAL PENALTY MM-CN-20-00765, 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 NOTICE OF POTENTIAL PENALTY MM-CN-20-00765 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: Brendan Marsh

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 33:1705 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.

	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.

Penalty Event Total = Penalty Event Minimum + (Adjustment Percentage x (Penalty Event Maximum - 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, Emission, Enforcement, Detection, 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 26</u> <u>FAQs</u>
Judicial Interest	<u>provided by the Louisiana State Bar Association</u>