

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**FAMILY DOLLAR STORES OF
LOUISIANA, LLC**

AI # 215688

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

* **Settlement Tracking No.**
* **SA-WE-24-0075**
*
*
* **Enforcement Tracking No.**
* **WE-CN-20-00158**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Family Dollar Stores of Louisiana, LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates a sewage treatment plant located in Vacherie, St. James Parish, Louisiana (“the Facility”).

II

On October 21, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. WE-CN-20-00158 (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 SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00), of which Two Thousand Nine Hundred Eighty-Four and 81/100 Dollars (\$2,984.81) 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), 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.

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. James 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. 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.

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.


FAMILY DOLLAR STORES OF
LOUISIANA, LLC

BY: [Signature]
(Signature)

MICHAEL ST. ROMAIN
(Printed)

TITLE: ATTORNEY


THUS DONE AND SIGNED in duplicate original before me this 10 day of
MARCH, 20 25, at COVINGTON, LA.

[Signature]
NOTARY PUBLIC (ID # 177491)
 KAYLIN K. STOREY
Notary Public
Notary ID No. 177491
St. Bernard Parish, Louisiana
(stamped or printed)


LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Courtney J. Burdette, Secretary

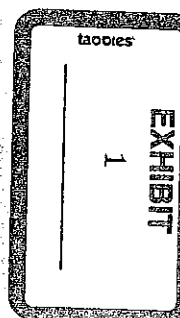
BY: [Signature]
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 20th day of
May, 20 25, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC 205
 DEIDRA JOHNSON
NOTARY ID # 51205
STATE OF LOUISIANA
PARISH OF EAST BATON ROUGE
My Commission is for Life
(stamped or printed)

Approved: [Signature]
Jerrie "Jerry" Lang, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POLY OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY			
Enforcement Tracking No.	WE-CN-20-00158	Certified Mail No.	7019 1120 0000 2352 2180				
Agency Interest (AI) No.	215288	Contact Name	Melissa Sherman				
Alphabetical No.	FAKOR163	Contact Phone No.	225-219-3770				
Respondent	Family Dollar Stores of Louisiana, Inc. c/o Corporation Service Company Agent for Service of Process 501 Louisiana Ave. Baton Rouge, LA 70802	Facility Name	Family Dollar #3750				
		Physical Location	2837 Highway 20				
		City, State, Zip	Vachene, LA				
		Parish	St. James				
<p>This CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued 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 30:2025(C), 30:2050.2 and 30:2850.3(B).</p>							
FINDINGS OF FACT							
<p><i>Authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violations identified during the inspection and/or file review are indicated below.</i></p>							
I.	<p>The Respondent owns and/or operates a sewage treatment plant servicing Family Dollar #3750 located at 2837 Highway 3 in Vachene, St. James Parish, Louisiana. The Respondent does not have a Louisiana Pollutant Discharge Elimination System (LPDES) permit or any other authority to discharge pollutants to waters of the state.</p>						
II.	<p>Date of Violation</p> <p>Inspection(s) & File Review</p> <p>7/13/2019</p> <p>10/7/2020</p>	<p>Description of Violation</p> <p>The Respondent failed to submit an application to obtain coverage for wastewater discharges to waters of the state. Specifically, an inspection conducted on February 18, 2019, revealed the facility was operating a sewer treatment plant without coverage under a LPDES permit. A file review conducted on October 7, 2020, revealed an application has not been received by the Department. (La. R.S. 30:2076(A)(3) and LAC 33:XX.2501.A)</p>					
ORDER							
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below.							
I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Water Quality Regulations. This shall include, but not be limited to, correcting all of the violations described in the "Findings of Fact" portion.						
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER . This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.						
III.	To submit a completed LPDES Permit Application to the Water Permits Division, within thirty (30) days after receipt of this COMPLIANCE ORDER . The completed LPDES Permit Application must address all outfalls at the facility and must follow all procedures and guidelines set forth in LAC 33:XX Chapter 25. The three sets (the original and two copies) of the completed permit application should be submitted to the Permits Division at the address specified in this document. A copy of the permit application should also be sent to the Enforcement Division.						
IV.	To address the violations identified in Findings of Fact, Paragraph II, and in accordance with the powers enumerated in La. R.S. 30:2011(D)(2), the Respondent is to carry out the compliance schedule attached as Attachment A within the time periods provided. During the time provided by the attached compliance schedule, the Respondent shall comply with the discharge limits and monitoring requirements contained in the attached compliance schedule.						
V.	All applicable Water Quality Regulations shall remain in full force and effect and shall remain enforceable at the Department's discretion. The compliance schedule limits and monitoring requirements listed in Attachment A shall remain in effect for the time period provided in the compliance schedule or until the Department issues a decision on the permit application or unless notified by Department in writing.						
VI.	Nothing in this COMPLIANCE ORDER is to be interpreted as relieving the Respondent from complying with the Water Quality Regulations nor is it to be interpreted as authorizing any discharges not in compliance with those limits contained in the regulations. The limits in this COMPLIANCE ORDER have been determined by the Department to not exceed any water quality standards.						
VII.	If the Respondent does not choose to discharge to waters of the state, the Respondent shall, within thirty (30) days after receipt of this COMPLIANCE ORDER , provide written documentation to the Department that no activities exist at the Respondent's facility resulting in any unauthorized discharges to waters of the state.						
RIGHT TO APPEAL							
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 left-hand corner of the first page of this document and should be directed to the address specified in this document.						
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 must advise or request the COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the Respondent to be heard at the hearing.
IV.	The Respondent must request a hearing on a disputed issue of material fact or of law under penalty of default within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY. 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 penalty of default for the Respondent 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 be grounds for the Department from conducting the findings of facts in any subsequent penalty action arising from the violations described herein. The Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.
VI.	The Respondent shall be assessed a civil penalty of not more than one hundred dollars (\$100) for each day of violation. The Respondent's failure to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to enforcement action under L.A. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than one hundred dollars (\$100) 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 L.A. R.S. 30:2020 (a), 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 and discuss circumstances concerning the violation(s). If you would like to have such a meeting, please contact Melissa Sherman at 225-219-3770 within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY.
III.	The Department is required by L.A. R.S. 30:2025 (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 revenue 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 L.A. R.S. 30:2025.
IV.	The CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is effective upon receipt.
CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4313 Baton Rouge, LA 70821 Attn: Melissa Sherman	Hearing Requests: 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-20-00158 Agency Interest No. 215688
Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY	
<ul style="list-style-type: none"> To appeal the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of the CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY. To request closure of the COMPLIANCE ORDER portion, the Respondent must demonstrate compliance with the "Order" portion of the COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form and returning it to the address specified. <ul style="list-style-type: none"> Before requesting closure of the COMPLIANCE ORDER portion, please contact the Financial Services Division at 225-219-2865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. To expedite closure of the NOTICE OF POTENTIAL PENALTY portion, the Respondent may offer a settlement amount to resolve any claims for civil penalties for the violation(s) described herein. <ul style="list-style-type: none"> The Department assesses civil penalties based on LAC 33:1 Subpart 1, Chapter 7. The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis. 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. Before requesting closure of the NOTICE OF POTENTIAL PENALTY portion, please contact the Financial Services Division at 225-219-2865 or email them at DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees. 	

If you have questions or need more information, you may contact Melissa Sherman at 225-219-3770 or melissa.sherman@la.gov.


Louisiana Department
Assistant Secretary
Office of Environmental Compliance

Date:

10-21-2020

cc: Ermy Washington
3837 Highway 3
Vacherie, Louisiana 70090

cc: Public Health Chief Engineer
Office of Public Health
Department of Health and Hospitals

Attachments:

- Request to Close
- Attachment A
- Settlement Flyer

Attachment A

Compliance Schedule

Task	Completion Date
Submit LPDES Permit Application	Within 30 days of issuance of this Compliance Order
Notify the Enforcement Division when LPDES Permit is issued	Within 15 days of LPDES Permit Issuance

If a completed LPDES notice of intent (NOI) or permit application is not submitted within thirty (30) days after receipt of this COMPLIANCE ORDER, the following discharge limitations and monitoring requirements will be terminated and the Department may take additional enforcement action.

Discharge Limits and Monitoring Requirements

Outfall 001 – "treated sanitary wastewater"


Outfall No.	Constituent	Mass Limitations (lb/day)		Concentration Limitations (mg/L unless stated)		Measurement Frequency	Sample Type
		Monthly Avg	Daily Max	Monthly Avg	Daily Max		
001	Flow (GPD)			N/A	Report	1/12 months	estimate
001	BOD ₅			N/A	45 mg/L	1/12 months	grab
001	TSS			N/A	45 mg/L	1/12 months	grab
001	Fecal Coliform			N/A	400 cfu/100 mL	1/12 months	grab
001	pH – Allowable Range (Standard Units)			6.0 (Minimum)	9.0 (Maximum)	1/12 months	grab

Samples taken in compliance with the monitoring requirements specified above shall be taken at the discharge point(s) prior to mixing with other waters.

Laboratory procedures and analyses shall be conducted by a commercial laboratory that has been certified by the Department in accordance with the requirements set forth under LAC 33:1 Subpart 3, Chapters 49-55. A list of laboratories that have received accreditation is available on the Department's website located at: <http://www1.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/LouisianaLaboratoryAccreditationProgram/AccreditedLaboratories.aspx>. Questions concerning the program may be directed to 225-219-3747.

Monitoring results shall be summarized on Annual Discharge Monitoring Reports (DMRs) and submitted annually no later than the twenty-eighth (28th) day of January of the following year. The Respondent shall continue the submission of DMRs by the twenty-eighth (28th) day of the month following each year until the Respondent is authorized under a LPDES permit or otherwise notified in writing by the Department. **COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY NO. WC-CN-20-00158** and the facility's Agency Interest (AI) number should be referenced on all DMRs and spreadsheets submitted in accordance with this COMPLIANCE ORDER. Instructions for the proper completion of electronic DMRs may be found on the Department's website at <http://deq.louisiana.gov/page/netdmr>.

Subject to the terms of this COMPLIANCE ORDER, the Respondent shall at all times make reasonable efforts to properly operate and maintain all facilities and systems of treatment and control which are installed or used by Respondent to achieve compliance with the conditions of these interim limitations and monitoring requirements. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. Whenever practicable under the terms and conditions of the COMPLIANCE ORDER, this provision requires the operation of back-up auxiliary facilities or similar systems, which are installed by a facility only when the operation is necessary to achieve compliance with the conditions of these interim limitations and monitoring requirements.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-0312		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE			
Enforcement Order No.	WE-CN-20-00158	Contact Name	Melissa Sherman		
Agency Approval (if any)	215000	Contact Phone No.	225-219-3770		
Address to file	16800103				
Respondent:	Family Dollar Stores of Louisiana, Inc. A/S Consolidated Service Company Agent for Service of Process 501 Louisiana Ave. Baton Rouge, LA 70802	Facility Name:	Family Dollar #3750		
		Physical Location:	2837 Highway 20		
		City, State, Zip:	Vacherie, LA		
		Parish:	St. James		
STATEMENT OF COMPLIANCE					
STATEMENT OF COMPLIANCE				Data Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II 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 III of the "Order" portion of the COMPLIANCE ORDER.					
All items to 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 93:1 Subpart 1, Chapter 7.				
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-20-00158), 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 (WE-CN-20-00158), 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.				
<input type="checkbox"/>	* 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 (WE-CN-20-00158) 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 Post Office Box 4312 Baton Rouge, LA 70821 Attn: Melissa Sherman					

If you have questions or need more information, you may contact Melissa Sherman at 225-219-3770 or melissa.sherman@la.gov.

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 the 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 331.705 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.

DEGREE OF RISK/IMPACT OF THE VIOLATION		NATURE AND GRAVITY OF THE VIOLATION		
		MAJOR	MODERATE	MINOR
		\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
MAJOR		\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
		\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100
MODERATE				
MINOR				

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 inconsequential 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.



ENVIRONMENTAL COMPLIANCE

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

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

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, Descriptive: Settlement
Settlement Agreements	Enforcement Division's website specific examples can be provided upon request
Penalty Determination Method	LAC 33:1 Chapter 7
Beneficial Environmental Projects	LAC 33:1 Chapter 25 FAQs
Judicial Interest	provided by the Louisiana State Bar Association

