

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**INTERCONTINENTAL TERMINALS
COMPANY LLC**

AI # 19556

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

* **Settlement Tracking No.**
* **SA-AE-25-0081**

* **Enforcement Tracking No.**
* **AE-CN-21-00839**

* **Docket No. 2023-11561-DEQ**
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Intercontinental Terminals Company 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 operated a storage and shipping/receiving facility located in Port Allen, West Baton Rouge Parish, Louisiana (“the Facility”) at the time of the alleged violations listed in Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00839.

II

On June 1, 2022, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00839 (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 SIX THOUSAND NINE HUNDRED AND NO/100 DOLLARS (\$6,900.00), of which One Thousand Four Hundred Seventy-Nine and 80/100 Dollars (\$1,479.80) 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 West Baton Rouge Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

XI

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accounts Receivable, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondent by the Financial Services Division. 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.

**INTERCONTINENTAL TERMINALS
COMPANY 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**
Courtney J. Burdette, 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

JUN 01 2022



CERTIFIED MAIL (7020 1290 0001 0463 1798)
RETURN RECEIPT REQUESTED

INTERCONTINENTAL TERMINALS COMPANY LLC
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Dr.
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-21-00839
AGENCY INTEREST NO. 19556**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **INTERCONTINENTAL TERMINALS COMPANY LLC (RESPONDENT)** for the violations described therein.

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/EHP/ehp
Alt ID No. 3120-00002
Attachment

c: Intercontinental Terminals Company LLC
c/o Mark Jeansonne, Manager
1943 Battleground Rd.
Deer Park, TX 77536

cc: Intercontinental Terminals Company LLC
c/o Tina Murrell, Environmental Coordinator
2449 North River Rd.
Port Allen, LA 70767

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

IN THE MATTER OF

**INTERCONTINENTAL TERMINALS
COMPANY LLC
WEST BATON ROUGE PARISH
ALT ID NO. 3120-00002**

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

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ENFORCEMENT TRACKING NO.

AE-CN-21-00839

AGENCY INTEREST NO.

19556

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **INTERCONTINENTAL TERMINALS COMPANY 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 Anchorage Chemical Terminal (the Facility), a storage and shipping/receiving facility. The Facility is located at 2449 North River Road in Port Allen, West Baton Rouge Parish, Louisiana. The Facility operates or has operated under the authority of the following Air Permits:

UNIT	PERMIT TYPE	ISSUE DATE	PERMIT EXPIRATION DATE
3120-00002-08	Minor Source	December 16, 2021	December 16, 2031
3120-00002-07	Minor Source	July 9, 2019	July 9, 2029
3120-00002-V1	Title V	March 24, 2014	March 24, 2019

II.

On or about September 12-13, 2019, August 24, 2021, and March 9, 2022, the Department conducted inspections and a subsequent file review of the facility to determine the degree of compliance with the Act and Air Quality Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. The Respondent exceeded the permitted Volatile Organic Compound (VOC) tons per year (tpy) emission limit for 2-88 Flare (EQT 0001). Specifically, on or about August 19, 2021, the Respondent submitted a notification to the Department's Single Point of Contact (SPOC) reporting an exceedance of the 5.45 tpy VOC limit for EQT 0001 for flared material due to increased activity at the site. In correspondence dated March 8, 2022, a representative of the Respondent reported that the total VOC emissions from January 1, 2021, through December 15, 2021, for EQT 0001 was 7.081 tpy, a 1.631 ton exceedance. This exceedance is a violation of Minor Source Permit No. 3120-00002-07, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). In Minor Source Permit Application dated September 13, 2021, the Respondent requested an increase of the VOC tpy permit limit from 5.45 tpy to 15.30 tpy for EQT 0001. Minor Source Permit No. 3120-00002-08 was issued on December 16, 2021, with a VOC tpy limit of 15.30 tpy for EQT 0001.
- B. The Respondent failed to submit the Title V Air Permit Renewal application at least six (6) months prior to the expiration date of the permit. Specifically, a renewal application for Title V Air Permit No. 3120-00002-V1 was due on September 24, 2018. On or about November 21, 2018, the Respondent submitted a Title V Renewal Application to the Department. In correspondence dated June 6, 2019, the Respondent requested that the Title V Renewal Application be converted to a Minor Source Permit Application. Pursuant to LAC 33:III.507.E.3, Title V Air Permit No. 3120-00002-V1 expired on March 24, 2019. The Department issued Minor Source Permit No. 3120-00002-07 on July 9, 2019. The failure to timely submit a Title V Air Permit renewal application is a violation of Specific Requirement (SR) 68 of Title V Permit No. 3120-00002-V1, LAC 33:III.501.C.4, LAC 33:III.507.E.4, LAC 33:III.535, and La. R.S. 30:2057(A)(2). The unauthorized operation of the facility from March 24, 2019, until July 8, 2019, is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- C. The Respondent failed to disclose in the 2018 Title V Second Semiannual Monitoring Report and the 2018 Title V Annual Compliance Certification dated March 28, 2019, that Title V Permit Renewal Application was not submitted prior to the September 24, 2018 due date and Title V Permit No. 3120-00002-V1 expired on March 24, 2019. Each failure to submit a complete and accurate Title V Annual Compliance Certification and Semiannual Monitoring Report is a violation of Part 70 General Conditions M and K, SR No. 68 of Title V Air Permit No. 3120-00002-V1, LAC 33:III.501.C.4, LAC 33:III.535.A, and La. R.S. 30:2057(A)(2).
- D. In correspondence dated April 23, 2021, the Respondent reported the failure to maintain flare emissions opacity less than 20 percent for 60 consecutive minutes on April 15, 2021, for EQT 0001. Specifically, black smoke was observed from the flare for 60 consecutive minutes, exceeding the maximum visible emissions limit of five (5) minutes during any two (2) consecutive hours. This is a violation of SR 19 of Minor Source Permit No. 3120-00002-07, 40 CFR 60.18(c)(1), which language has been adopted as a Louisiana regulation in LAC 33:III.3003., LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). Additionally, the Respondent failed to maintain flare emissions opacity less than 20 percent for more than a six (6) minute period in sixty (60) consecutive minutes. This is a violation of SR 28 of Minor Source Permit No. 3120-00002-07, LAC 33:III.1311.C., LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to record monthly visible emission inspections for the Diesel Firewater Pump Engines (CRG 0001 – EQTs 0002, 0003) during the months of July and August 2019. The Minor Source Permit requires CRG 0001 to be inspected for visible emissions each month. During the inspection, the representative of the Respondent indicated that the inspections were conducted because the engines are turned on multiple times per month and visible emissions would be observed at those times. However, the facility did not record these inspections since the issuance of the minor source permit, for the months of July and August 2019. Each failure to record visible inspections is a violation of SR 18 of Minor Source Permit No. 3120-00002-07, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- F. In the 2017 1st Semiannual Monitoring Report dated September 28, 2017, the Respondent reported the failure to meet the 90 percent VOC destruction/removal efficiency (DRE) for EQT 0001 on February 18, 2017, and March 5, 2017, for one (1) minute on each date. Specifically, the Respondent reported that liquid exited the top of the flare stack because of an incorrect

liquid level indication in the seal drum allowing it to overflow. Each overflow event is a violation of SR 4 of Title V Air Permit No. 3120-00002-V1, LAC 33:III.2107.B, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- G. In the 2017 2nd Semiannual Monitoring Report dated March 28, 2018, the Respondent reported the failure to maintain best practical housekeeping and maintenance practices at the highest possible standards to control emissions of highly reactive volatile organic compounds (HRVOC) on December 18, 2017, for 0.08 hours. Specifically, a faulty railcar valve was identified as leaking butadiene vapor. Upon initial identification of the leak, the railcar was connected to the flare. The railcar contained butadiene vapor at 15 psig, but was depressurized to the flare until it reached ambient pressure and no butadiene was leaking from the valve. The railcar was sent for repair. The total quantity of 1,3-butadiene released was estimated to be 2.4 pounds. This is a violation of SR 66 of Title V Air Permit No. 3120-00002-V1, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a revised Title V Annual Compliance Certification and revised Second Title V Semiannual Monitoring Report for 2018, as referenced in Findings of Fact Paragraph III.C.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Elisabeth Pigott
Re: Enforcement Tracking No. AE-CN-21-00839
Agency Interest No. 19556

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

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

II.

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

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. AE-CN-21-00839
Agency Interest No. 19556

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

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

V.

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

VI.

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

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Elisabeth Pigott at (225) 219-3378 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited 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.

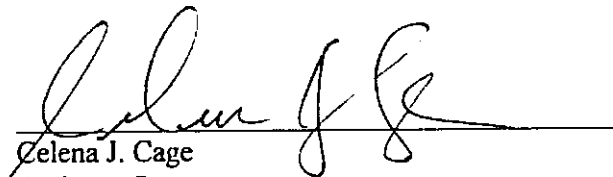
IV.

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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.


This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**
is effective upon receipt.

Baton Rouge, Louisiana, this 18th day of June, 2022.


Celena J. Cage
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Elisabeth Pigott

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE			
Enforcement Tracking No.	AE-CN-21-00839	Contact Name	Elisabeth Pigott		
Agency Interest (AI) No.	19556	Contact Phone No.	(225) 219-3378		
Alternate ID No.	3120-00002				
Respondent:	Intercontinental Terminals Company LLC	Facility Name:	Anchorage Chemical Terminal		
	c/o C T Corporation System	Physical Location:	2449 N River Road		
	Agent for Service of Process				
	3867 Plaza Tower Dr.	City, State, Zip:	Port Allen, LA 70767		
	Baton Rouge, LA 70816	Parish:	West Baton Rouge Parish		
STATEMENT OF COMPLIANCE					
STATEMENT OF COMPLIANCE		Date Completed	Copy Attached?		
A written report was submitted in accordance with Paragraph IV 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)					
<i>(check the applicable option)</i>					
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.				
_____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00839), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00839), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion. <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. 				
The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00839) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.					

CERTIFICATION STATEMENT												
<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>												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; height: 40px;"></td> <td style="width: 33%; height: 40px;"></td> <td style="width: 33%; height: 40px;"></td> </tr> <tr> <td style="text-align: center; padding: 5px;">Respondent's Signature</td> <td style="text-align: center; padding: 5px;">Respondent's Printed Name</td> <td style="text-align: center; padding: 5px;">Respondent's Title</td> </tr> <tr> <td style="height: 40px;"></td> <td style="height: 40px;"></td> <td style="height: 40px;"></td> </tr> <tr> <td style="text-align: center; padding: 5px;">Respondent's Physical Address</td> <td style="text-align: center; padding: 5px;">Respondent's Phone #</td> <td style="text-align: center; padding: 5px;">Date</td> </tr> </table>				Respondent's Signature	Respondent's Printed Name	Respondent's Title				Respondent's Physical Address	Respondent's Phone #	Date
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: Elisabeth Pigott												

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:I.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 TO HUMAN HEALTH OR PROPERTY	NATURE AND GRAVITY OF THE VIOLATION			
		MAJOR	MODERATE	MINOR
	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

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

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

The range is adjusted using the following violator specific factors:

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



SETTLEMENT AGREEMENTS

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

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

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

WHAT IS A BEP?

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

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

WHAT HAPPENS IF MY OFFER IS REJECTED?

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

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:1 Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:1 Chapter 25</u> <u>FAQs</u>
Judicial Interest	<u>provided by the Louisiana State Bar Association</u>

