

LDEQ Enforcement — A Never-ending Saga

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Enforcement



Disclaimer



All information contained herein is provided solely for educational purposes. It is not intended as a substitute for professional or legal advice. Should you decide to act upon any information contained in this presentation, you do so at your own risk.



Office of Environmental Compliance

- **Mission Statement:** The Mission of the Office of Environmental Compliance is to ensure the public and occupational welfare of the people and protect the environmental resources of Louisiana by...issuing sound enforcement actions.
- **How:** Through a program of regular inspection of permitted facilities, timely investigation of complaints and incidents, coupled with a thorough review process, and by issuing enforcement actions that clearly document the violations and presents a path to compliance.
- **Why:** To deter future non-compliance and eliminate the economic incentives for non-compliance.



State Environmental Regulations

- Louisiana Revised Statutes (La. R.S.)
 - Title 30
 - Louisiana Environmental Quality Act
- Louisiana Administrative Code (LAC)
 - Title 33
 - Part I Office of the Secretary
 - Part III Air
 - Part V Hazardous Waste
 - Part VI Inactive Sites
 - Part VII Solid Waste
 - Part IX Water Quality
 - Part XI UST
 - Part XV Radiation Protection



Enforcement Process: A Saga

Saga [SAH-guh] (noun)– a long, involved story, account, or series of incidents, with a continuous narrative over a significant span of time.

The Beginning:

- SELF-DISCLOSED ISSUES
- OES (PERMIT) REFERRALS
- ENFORCEMENT INTERNAL FILE REVIEWS
 - BASED ON DMRs/TITLE V, ETC.
 - BASED ON DOCUMENTS SUBMITTED TO DEQ or LACK OF REQUIRED DOCUMENT SUBMITTAL
- FIELD (SURVEILLANCE/ER/CAPP) REFERRALS
 - ROUTINE
 - COMPLAINTS and SPILLS



NOT ALL INSPECTIONS w/AOCs WILL LEAD TO ENFORCEMENT

After The Inspection...

- Field Interview Form (FIF)
 - Start investigating the areas of concern noted by the Department's inspector(s)
 - Gather any information, documentation, receipts, pictures, etc. that will aid in achieving compliance or provide mitigating factors surrounding the circumstances.
- For AOCs that are relatively minor and have little to no adverse impacts to the environment:
 - The Regional DEQ Regional Office may issue a Notice of Deficiency (NOD).
 - Upon a satisfactory response to the NOD, the Regional Office will issue a Deficiency Clear Letter (DCL) and the issue will be considered resolved.
 - It is important to **RESPOND to an NOD!** Failure to respond in a timely manner may result in the inspection being forwarded to **Enforcement.**



Why Are Referrals Sent To Enforcement?

- Failure to Respond or Respond Adequately to an NOD
- Previous Violations of a Similar Nature
- Previous Enforcement Actions
- Adverse Impacts to Public Health and/or the Environment
- More significant violations that cannot be resolved during or shortly after the inspection
- Violations that require soil and/or groundwater remediation
- Case-by-Case basis



Warning Letter - What is this?



- Informs facility that AOCs have been referred to Enforcement and includes the following information:
 - Inspection date
 - EDMS link and Document ID No. for the inspection referral
 - Name, phone number, and email address of Enforcement ES who will be the point of contact for the case
- Requests a 30-Day Response
 - While this is only a request, a response is extremely beneficial for both the Respondent and LDEQ Enforcement Division
 - Formal extensions are not needed; however, inform the Enforcement ES of your intent to submit a response



Enforcement Action:

This is where it gets interesting...

- The action will go through several levels of review:
 - Enforcement ES/Writer
 - Point of Contact
 - Supervisor and/or Manager
 - Legal
 - EPS (formatting review)
 - Administrator
 - Assistant Secretary



Enforcement Actions/Tools

- Notice of Violation(NOV)/Notice of Corrected Violation(NOCV)
- Compliance Order (CO)
- Consolidated Compliance Order and Notice of Potential Penalty (CONOPP)
- Notice of Potential Penalty (NOPP)
- Expedited Penalty Agreement (XP)
- Penalty Assessment
- Settlement Agreement



Enforcement Actions/Tools



- Notice of Violation (NOV)
 - Minor violations
 - Written Report -Optional
 - Can Not be Appealed
 - In Most Cases an NOV is Closed upon Issuance
- Compliance Order (CO)
 - Minor to Moderate violations
 - Requires Written Report (Usually within 30 days)
 - Requires timely Compliance with Regulations (Injunctive Relief)
 - Can be Appealed
- Compliance Order & Notice of Potential Penalty (CONOPP)
 - Moderate to Major violations
 - Requires Written Report
 - Requires timely Compliance with Regulations
 - Can be Appealed
 - Notice that the Department is considering a Penalty
 - Request Submission of Gross Revenues & Benefit of Noncompliance
- Notice of Potential Penalty (NOPP)
 - Moderate to Major violations
 - Written comments may be filed
 - Respondent can request a meeting
 - Can Not be Appealed
 - Notice that the Department is considering a Penalty
 - Request Submission of Gross Revenues & Benefit of Noncompliance

Enforcement Actions/Tools

Expedited Penalty Agreement (XP)

- Cites minor violations with predetermined penalty amounts found in LAC 33:I Chapter 8
- Not to exceed \$3,000 for one/\$5,000 for two or more violations
- Must come into compliance
- Cannot be appealed
- Voluntary
 - Otherwise NOPP
- Pay a significantly reduced penalty

Settlement Agreement

- Must have met compliance with the action(s) being settled
- Must assess against factors outlined in La. R.S. 30:2025(E)
- Decision to enter settlement negotiations is at the discretion of the OEC Assistant Secretary
- Must be public noticed
- Must get Attorney General concurrence
- May hold public hearing

Penalty Assessment (PA)

- Cites violations
- Pursuant to La. R.S. 30:2050.3(C)(2)
 - Must be reasonably specific
 - Must indicate the amount of the penalty
 - Must notify of right to appeal
- Must assess against factors outlined in La. R.S. 30:2025(E) and LAC 33:I.Chapter 7



Language in a CO, CONOPP, and a PA

- Pursuant to La. R.S. 30:2050.4, 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**.

- The request shall :
 - Specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested;
 - Briefly describe the basis for the request;
 - 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
 - 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. #####

Agency Interest No. #####



Adjudicatory Hearings, Appeal Process, and Informal Dispute Resolution (IDR): CO, CONOPP, or PA

- Respondent has thirty (30) days after receipt of a CONOPP/CO/PA to request an Adjudicatory Hearing (Appeal) [La. R.S. 30:2050.4].
- Appeal requests must be specific.
- If appeal is requested, the Secretary has thirty (30) days to grant or deny appeal.
- Both Respondent and Department may elect for informal dispute resolution [La. R.S. 30:2050.4(J)]. During IDR, the 30-day requirement to grant or deny the appeal is deferred for up to one (1) year.
- The matter will be heard by an Administrative Law Judge and will be governed by the Louisiana Environmental Quality Act (LEQA) and the Administrative Procedures Act (APA) and the Division of Administrative Law Procedural Rules.
- The respondent can appeal a negative outcome to the 19th JDC.
- The Department cannot further appeal a negative ruling.

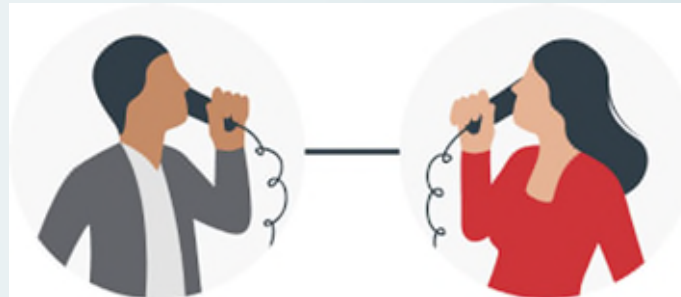
NOTE:

If action is not appealed and compliance is not achieved during the prescribed timeframe, the action is now a final enforcement action and a permanent part of compliance history.



IDR

- Voluntary process allowing the regulated party and LDEQ to resolve disagreements without litigation.
- 30-day requirement to grant or deny the appeal is deferred for up to one (1) year.



- Beneficial to both parties to keep constant communication and throughout the one (1) year period.

Submitting Documentation you may consider **Confidential Business Information (CBI)**

- LAC 33:I.Chapter 5 – Confidential Information Regulations
- LAC 33:I.503 – Requests for Confidentiality
 - Each request **SHALL** include everything listed in LAC 33:I.503.A.1-7
 - Each request **SHALL** be submitted with two (2) versions – one (1) “confidential” version and one (1) “public” version
- Submit requests to:
 - Office of the Secretary, Legal Division, Attention: General Counsel
 - **DO NOT** submit to the Enforcement ES




Language in a CONOPP and an NOPP states:



“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.”

Now we’re getting somewhere:

Complete Request to Settle Form

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE					
ENFORCEMENT DIVISION				NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE (OPTIONAL)	
POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312					
Enforcement Tracking No.	AE-PP-25-12345	Contact Name	Jane Enforcement		
Agency Interest (AI) No.	999	Contact Phone No.	219-5555		
Alternate ID No.	LA000000023456789				
Respondent:	ACME Brick House LLC	Facility Name:	ACME Brick House		
	c/o Road Runner	Physical Location:	1122 Three Place		
	Agent for Service of Process				
	1234 Cuckoo Lane	City, State, Zip:	Albuquerque, LA 70001		
	Baton Rouge, LA 70802	Parish:	Hare		
SETTLEMENT OFFER (OPTIONAL)					
<i>(check the applicable option)</i>					
<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 (AE-PP-25-12345), 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"/>	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY (AE-PP-25-12345).				
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-25-12345), 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 (AE-PP-25-12345) 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: Jane Enforcement					



Past Settlements can be found on the LDEQ public website:

www.deq.louisiana.gov

- *click* About LDEQ
- *click* Enforcement

Settlement Brochure

<https://www.deq.louisiana.gov/page/enforcement-division>

The screenshot shows the LDEQ Louisiana website. The header includes the DEQ Louisiana logo and navigation links: PUBLIC RECORDS, EBUSINESS, CONTACT US, REPORT AN ENVIRONMENTAL INCIDENT, SEARCH, and TRANSLATE. A secondary navigation bar lists: ABOUT LDEQ, AIR, LAND, WATER, and EMERGENCY & RADIATION. The breadcrumb trail reads: LDEQ > About LDEQ > Enforcement. A left sidebar menu is titled 'ABOUT LDEQ' and contains the following items: OFFICES & DIVISIONS, PROGRAMS, NEWS, LDEQ COMMUNICATIONS, RULES & REGULATIONS, LEGAL, PUBLIC PARTICIPATION & PERMIT SUPPORT, INFORMATION & RECORDS, FINANCIAL SERVICES, CAREERS, ENFORCEMENT, SURVEILLANCE, RESOURCES, STRATEGIC PLANNING, FAQ, and ONLINE INCIDENT REPORTING. The main content area is titled 'Enforcement' and features the following sections:

- Angela Marse, Administrator**
P.O. Box 4312
Baton Rouge, LA 70821-4312
Email: deqenforcement@LA.GOV
Phone: (225) 219-3931
Fax: (225) 219-3330
- Enforcement Actions**
Enforcement action reports are updated on a monthly basis. The reports are current up to the previous month due to the time lapse between generation, receipt, data entry and accuracy verification.
 - Monthly Reports
- Settlement Agreements**

By Year				
2011	2012	2013	2014	2015
2016	2017	2018	2019	2020
2021	2022	2023	2024	2025

 - Settlement Agreement Brochure
- Beneficial Environmental Projects (BEP)**
 - Propose a BEP
 - View the BEP Library
 - BEP FAQ's

LAC 33:I.Chapter 7 - Penalties

1. History of previous violations or repeated noncompliance;
2. **Nature and Gravity of the violation;**
3. Gross revenues generated by the Respondent;
 - Can be declared CONFIDENTIAL. Such requests are made through the LDEQ – Legal Division (LAC 33:I.Chapter 5)
 - Department requests the submittal within 10 days of receipt of the action, if the Respondent chooses not to submit the requested gross revenues, 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.
4. Degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
5. **Monetary benefits realized through noncompliance;**
6. **Degree of risk to human health or property caused by the violation;**
7. Whether the noncompliance or violation and the surrounding circumstances were immediately reported to the Department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged;
8. Whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation;
9. **Response Costs - costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.**





Penalty Matrix				
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

Risk

Minor – No actual harm or risk of harm; isolated single incidences and cause no measurable detrimental effect or are administrative in nature.

Moderate – potential for measurable detrimental impact; occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain circumstances

Major – actual measurable harm or substantial risk of harm; high volume and/or frequent occurrence and/or high pollutant concentration

Nature & Gravity

Minor – violation(s) result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

Moderate – violation(s) result in substantially negating the intent of the requirement; however, some implementation of the requirements occurred.

Major – violation(s) result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Monetary Benefits of Noncompliance

- Delayed cost
 - Judicial Interest
- Avoided cost
- Examples:
 - Permit fees
 - Sampling, Testing, Inspection costs
 - Development or Implementation of Plans
 - Purchase and/or Installation of Equipment




Response Costs

- Recover costs of:
 - Surveillance staff activities, including cleanup costs
 - Bringing and prosecuting an enforcement action

Closure Documents

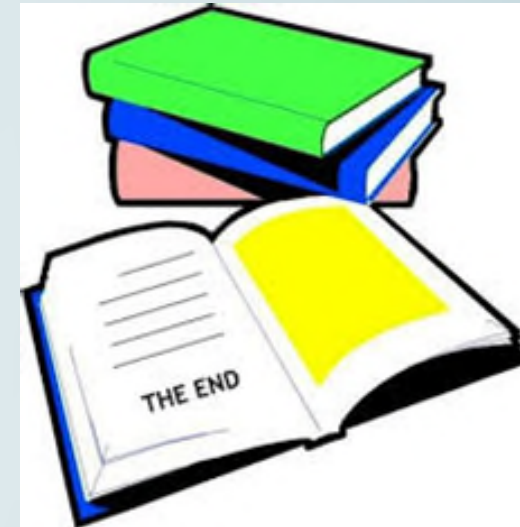
- Request to Close Form
 - COs/CONOPPs
- Closure Memo
 - Internal document
 - Will be placed in EDMS
- Violation Clear Letter (VCL)
 - Will identify specific violations that have been addressed
 - Reserves LDEQ's Right to issue a Civil Penalty
 - Will be placed in EDMS



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312		COMPLIANCE ORDER REQUEST TO CLOSE			
Enforcement Tracking No.	AE-C-25-12345	Contact Name	Jane Enforcement		
Agency Interest (AI) No.	999	Contact Phone No.	219-5555		
Alternate ID No.	LA000000023456789				
Respondent:	ACME Brick House LLC	Facility Name:	ACME Brick House		
	c/o Road Runner	Physical Location:	1122 Three Place		
	Agent for Service of Process	City, State, Zip:	Albuquerque, LA 70001		
	1234 Cuckoo Lane Baton Rouge, LA 70802	Parish:	Hare		
STATEMENT OF COMPLIANCE					
STATEMENT OF COMPLIANCE				Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph X 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 Paragraphs II-IX 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:					
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>					
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: Jane Enforcement					

End of the Saga...

Once “compliance” is achieved
and/or
Penalties are addressed



The book can be closed on that action!!!!
...until the next inspection/file review/incident

Takeaways...

- There are Checks and Balances incorporated into the Process
- There are many Enforcement tools to use for different Circumstances (One size doesn't fit all)
- The Enforcement process can be lengthy - be patient and keep in contact with the Department
- Consistency is our Goal

Remember:

- Keep the Lines of Communication Open
- Be Aware of Your Deadlines
- Always be Honest and Upfront in any Responses



Updates

- **Title V Reporting (AQ400)**

- Effective Date: End of 4th Quarter 2025
- LAC 33:III.535 - Part 70 General Conditions
 - Requires mandatory use of the Department's Title V Reporting Forms
 - Modifies the report referencing process
- Official release of updated Title V Semiannual Monitoring and TV Annual Compliance Certification Forms
 - Forms will be available as Word documents and Excel spreadsheets

- **XP Regulations (OS105)**

- La. R.S. 30:2025.D(1), effective August 1, 2025
 - Maximum penalty per violation - \$5,000 (previously \$3,000)
 - Maximum aggregate penalty per violator - \$10,000 (previously \$5,000)
- LAC 33:I.805.A
 - 45-day Public Comment Period
 - Opened 9/20/2025
 - Closes 11/6/2025
 - Public Hearing Date: 10/30/2025



Contact Information



- Courtney Tolbert
 - Supervisor, Air Enforcement
 - Courtney.Tolbert@la.gov
 - 225-219-3347





Any questions?

No

Great!

Thank You!!