

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WAL-MART STORES EAST, LP

AI # 84757

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

* **Settlement Tracking No.**
* **SA-AE-25-0064**
*
* **Enforcement Tracking No.**
* **AE-CN-21-00668**
*
*
* **Docket No. 2025-12677-DEQ**
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Wal-Mart Stores East, LP (“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 partnership that owns and/or operates a food distribution center located in Robert, Tangipahoa Parish, Louisiana (“the Facility”).

II

On February 23, 2024, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00668 (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 TWENTY-EIGHT THOUSAND ONE HUNDRED FORTY-THREE AND NO/100 DOLLARS (\$28,143.00), of which Two Thousand One Hundred Twenty-Nine and 87/100 Dollars (\$2,129.87) 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), 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 Tangipahoa 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.

WAL-MART STORES EAST, LP

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

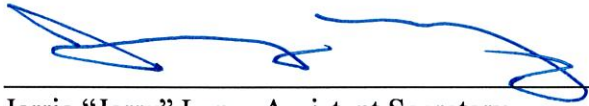
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Courtney J. Burdette, Secretary

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

JEFF LANDRY
GOVERNOR

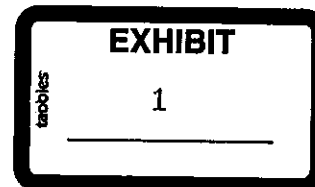


AURELIA S. GIACOMETTO
SECRETARY

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

FEB 23 2024

CERTIFIED MAIL (7021 1970 0000 3974 0341)
RETURN RECEIPT REQUESTED



WAL-MART STORES EAST, LP
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-21-00668
AGENCY INTEREST NO. 84757**

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 **WAL-MART STORES EAST, LP (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 Courtney Tolbert at 225-219-3347 or courtney.tolbert@la.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/CJT/cjt
Alt ID No. LA0000002210500243
Attachment

c: WalMart Distribution Center #6057
c/o Justin Seaverns, General Manager
45346 Parkway Boulevard
Robert, LA 70455

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

IN THE MATTER OF

**WAL-MART STORES EAST, LP
TANGIPAHOA PARISH
ALT ID NO. LA0000002210500243**

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

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ENFORCEMENT TRACKING NO.

AE-CN-21-00668

AGENCY INTEREST NO.

84757

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **WAL-MART STORES EAST, LP (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates a food distribution center, located at 45346 Parkway Boulevard in Robert, Tangipahoa Parish, Louisiana. The facility is subject to 40 CFR 68 Chemical Accident Prevention Provisions (CAPP) Program Level three (3).

II.

On or about May 11 through 13, 2021, a CAPP inspection was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act), Air Quality Regulations, and CAPP requirements. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to document a description of the vessel for the worst case scenario and failed to document the rationale for selection for the offsite consequences

analysis for the worst case scenario. Specifically, the only documentation provided to the Department's inspectors was the aerial locations of hazardous atmospheres (ALOHA) parameters and the 2021 Environmental Protection Agency (EPA) risk management plan (RMP) submittal. The failure to document a description of the vessel for the worst case scenario and failure to document the rationale for selection for the offsite consequences analysis for the worst case scenario is a violation of 40 CFR 68.39(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated July 8, 2021, the Respondent provided the necessary information and documentation for the facility's worst case scenario vessel description and rationale for selection.

- B. The Respondent failed to document a description of the scenarios identified and the rationale for the selection of the specific scenarios on the offsite consequences analysis for the alternate release scenario. Specifically, the only documentation provided to the Department's inspectors was the ALOHA parameters and the 2021 EPA RMP submittal. The failure to document a description of the scenarios identified and the rationale for the selection of the specific scenarios on the offsite consequences analysis for the alternate release scenario is a violation of 40 CFR 68.39(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence date June 2, 2021, and July 8, 2021, the Respondent provided the necessary information and documentation for the facility's alternate release scenario.
- C. The Respondent failed to document that equipment complies with recognized and generally accepted good engineering practices. Specifically, the Respondent failed to meet the American National Standards Institute-International Institute of Ammonia Refrigeration (ANSI-IIAR)-2-1999 standard in the following instances: there was no safety shower/eyewash station outside of the machine room and the door separating the machine room and the control room was not equipped with "panic hardware" (the door opened with a handle instead of a push-bar). In correspondence dated June 21, 2021, the Respondent stated the facility utilizes a Guardian G1562 15-gallon portable eyewash/drench unit outside of the energy center and this meets the requirements of ANSI Z358.1-2014. However, the Guardian G1562 15-gallon portable eyewash/drench

unit is designed to supply 0.65 gallons per minute (gpm) of water for 15 minutes and ANSI Z358.1-2014 requires emergency showers to be capable of 20 gpm for a minimum of 15 minutes. Additionally, the Guardian G1562 15-gallon portable eyewash/drench unit does not allow the operator to be hands free once activated as required by ANSI Z358.1-2014. Each failure to document that equipment complies with recognized and generally accepted good engineering practices is a violation of 40 CFR 68.65(d)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). After consideration of the CAPP inspector's recommendations, the Respondent hired a contractor to install push-bar hardware on the door leading out of the energy center on May 27, 2021. This installation resulted in all three (3) doors leaving the energy center being equipped with "panic hardware".

- D. The Respondent failed to certify annually that the operating procedures are current and accurate. Specifically, the Respondent was three (3) months late in certifying its operating procedures in 2018. Procedures were certified on January 31, 2017, and were not certified again until April 25, 2018, approximately three (3) months after the January 31, 2018, annual due date. Additionally the procedures needed to be certified by April 25, 2019; however, the procedures were not certified until July 17, 2019, approximately three (3) months after the annual due date. Each failure to certify the operating procedures annually is a violation of 40 CFR 68.69(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to train employees involved in operating a process and maintenance, whose job tasks would be affected by a change in the process, were informed of, and trained in, the change prior to start-up of the process. Specifically, Management of Change (MOC) No. 49 indicated that operator training would be completed at the time of startup; however, at the time of the inspection, the Respondent could not provide documentation to show training was completed. The MOC was closed and the startup of the process occurred without operators being trained on the change. The failure to train employees involved in operating a process and maintenance, whose job tasks would be affected by a change in the process, were

informed of, and trained in, the change prior to start-up of the process is a violation of 40 CFR 68.75(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). The Department's inspectors requested the Respondent to train the affected employees and submit documentation of the training to the Department. In correspondence dated July 8, 2021, the Respondent submitted documentation showing a training for MOC No. 49 was completed on June 29, 2021.

- F. The Respondent failed to update process safety information associated with MOC No. 48. Specifically, R0-14 (valve sheet) and piping and instrumentation diagram (P&ID) R1.58 were not updated before MOC No. 48 was closed. At the time of the inspection, the Respondent's representative found that the documents and updated them before the Department's inspection concluded. The failure to update process safety information associated with MOC No. 48 is a violation of 40 CFR 68.75(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated June 2, 2021, the Respondent's representative stated that upon review of MOC No. 48, the R0 numbers were inadvertently transposed while filling out the MOC document and the changes were reflected on R0.14 valve sheet. The correct sheet, R0.41, was consequently updated.
- G. The Respondent failed to document the object on which the hot work is to be performed. Specifically, the facility's hot work permit form does not contain a line for the object to be worked on, but instead, it has a place to fill out the "area" in which the hot work was performed. In correspondence dated June 2, 2021, the Respondent stated at the top of the hot works permits for the facility there are blank lines to describe the impacted area(s) and the hot work to be performed. In correspondence dated June 7, 2021, the Department's inspector replied to the Respondent stating, pursuant to 40 CFR 68.85(b), "the permit shall document that the fire prevention and protection requirements in 29 CFR 1910.252(a) have been implemented prior to beginning the hot work operations; it shall indicate the date(s) authorized for hot work; and identify the object on which hot work is to be performed. The permit shall be kept on file until completion of the hot work operations." At the time of the inspection ten (10) hot work permits were reviewed, none of which contained the object that the hot work was to be

performed on. Additionally, "Penthouse #7" was written for the "Area" for the majority of the hot work permits, which does not meet the requirement of 40 CFR 68.85(b). Each failure to document the object on which the hot work is to be performed is a violation of 40 CFR 68.85(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- H. The facility failed to coordinate response needs with local emergency planning and response organizations. On or about January 13, 2017, 40 CFR 68 Subpart E was amended, by adding 40 CFR 68.93(a-c). The 2017 Amendment became effective on September 21, 2018. Pursuant to 40 CFR 68.93(a), emergency response coordination shall occur at least annually, and more frequently if necessary. The 2017 Amendment set the first coordination event on or before September 21, 2019, and annually thereafter. At the time of the Department's inspection, the Respondent could not provide documentation to support that coordination activities occurred at the facility starting at least September 21, 2019, and annually thereafter. This is a violation of 40 CFR 68.93(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated September 7, 2023, the Respondent's representative stated the coordination event occurred on July 18, 2022, three (3) members of the Tangipahoa Emergency Operations Center were in attendance; however, the Fire Chief was not in attendance due to an emergency.
- I. The Respondent failed to provide the local emergency planning and response organizations with the facility's emergency action plan, emergency contact information, and other information necessary for developing and implementing the local emergency response plan. In correspondence dated June 2, 2021, the Respondent's representative stated the facility provides copies of its Ammonia Emergency Response Manual to the LEPC and Fire Department on an annual basis; however, the Department does not have documentation validating the Ammonia Emergency Response Manual is the facility's emergency action plan. The failure to provide the local emergency planning and response organizations with the facility's emergency action plan, emergency contact information, and other information necessary for developing and implementing the local emergency response plan is a

violation of 40 CFR 68.93(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- J. The Respondent failed to document coordination with local authorities, including: names of individuals involved and their contact information (phone number, email address, and organizational affiliations); dates of coordination activities; and nature of coordination activities. In electronic correspondence dated September 7, 2023, the Respondent's representative stated the coordination event with local emergency planning and response organizations occurred on July 18, 2022. In electronic correspondence dated September 23, 2023, the Respondent's representative stated there was no sign in sheet for the July 18, 2022 coordination event to document the required information in 40 CFR 68.93(c). This is a violation of 40 CFR 68.93(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated October 16, 2023, the Respondent's representative submitted a coordination activity sign-in sheet which occurred at the facility on September 26, 2023. The coordination sign-in sheet included the names of individuals involved and their contact information (phone number, email address, and organizational affiliations); date of the coordination activity; and the nature of the coordination activity.
- K. The Respondent failed to implement an emergency response program for the purpose of protecting public health and the environment that includes the following element, but is not limited to, procedures for Level A suit inspection. Specifically, the procedure, 19-0802 HAZMAT Team Equipment covered annual testing of Level A suits, requiring annual Level A suit inspections. At the time of the inspection, the Department's inspector reviewed annual Level A suit inspections conducted on January 11, 2017, March 7, 2018, January 9, 2019, January 8, 2020, and January 29, 2021. The March 7, 2018 Level A suit inspection was conducted approximately two (2) months late; subsequent suit inspections have been conducted timely. The failure to implement procedures for the use of emergency response equipment for inspection is a violation of 40 CFR 68.95(a)(2), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).

- I. The Respondent failed to coordinate the emergency response plan developed under 40 CFR 68.95(a)(1) with the local emergency planning committee (LEPC). Specifically, during the inspection, the Respondent's representative provided documentation from 2020 that showed coordination of the hazardous waste contingency plan with a local response agency. However, the facility's hazardous waste contingency plan only covers cleanup efforts after a release has already occurred and not the emergency response plan. The failure to coordinate the emergency response plan developed under 40 CFR 68.95(a)(1) with the LEPC is a violation of 40 CFR 68.95(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated June 2, 2021, the Respondent's representative stated that the facility provides copies of the facility's Ammonia Emergency Response Manual to the LEPC and Fire Department on an annual basis and the Respondent has also extended invitations to meet with both organizations. In correspondence dated September 7, 2023, the Respondent's representative stated the coordination event occurred on July 18, 2022.

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 install, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, an eye wash and body shower unit that meets the requirements of American National Standards Institute / International Safety Equipment Association (ANSI/ISEA) Z358.1-2014, as referenced in Findings of Fact paragraph II.C.

III.

To submit, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation demonstrating the facility's emergency action plan, emergency contact information, and other information

necessary for developing and implementing the local emergency response plan has been provided to the local emergency planning and response organizations, as referenced in Findings of Fact paragraph II.I.

IV.

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: Courtney Tolbert
Re: Enforcement Tracking No. AE-CN-21-00668
Agency Interest No. 84757

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-21-00668
Agency Interest No. 84757

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 thirty-two thousand five hundred dollars (\$32,500) for each day of violation for the violation(s) described herein may be assessed. 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 Courtney Tolbert at 225-219-3347 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 23rd day of February, 2024.




Aurelia S. Giacometto

Secretary

Louisiana Department of Environmental Quality

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: Courtney Tolbert

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-21-00668	Contact Name	Courtney Tolbert				
Agency Interest (AI) No.	84757	Contact Phone No.	225-219-3347				
Alternate ID No.	LA0000002210500243						
Respondent:	Wal-Mart Stores East, LP	Facility Name:	WalMart Distribution Center #6057				
	c/o C T Corporation System	Physical Location:	45346 Parkway Boulevard				
	Agent for Service of Process						
	3867 Plaza Tower Drive	City, State, Zip:	Robert, Louisiana 70455				
	Baton Rouge, LA 70816	Parish:	Tangipahoa				
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 Paragraphs II & III of the "Order" portion of the COMPLIANCE ORDER.							
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:							
SETTLEMENT OFFER (OPTIONAL)							
(check the applicable option)							
_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.						
_____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY AE-CN-21-00668, the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.						
_____	<p>In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY AE-CN-21-00668, 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.</p> <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-21-00668 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.						

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: Courtney Tolbert

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.

		NATURE AND GRAVITY OF THE VIOLATION			
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR 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

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

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

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

The range is adjusted using the following violator specific factors:

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



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

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

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

WHAT IS A BEP?

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

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

WHAT HAPPENS IF MY OFFER IS REJECTED?

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

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in <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:I Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:I Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

