

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

THOMA-SEA MARINE
CONSTRUCTORS, L.L.C.
AI # 188954 AND 140410

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

* Settlement Tracking No.
* SA-HE-19-0004
*
* Enforcement Tracking No.
* HE-CN-18-00008
* HE-PP-18-00044
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SETTLEMENT

The following Settlement is hereby agreed to between Thoma-Sea Marine Constructors, L.L.C. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates a marine vessel fabrication, painting, and repair facility located at 429 Rome Woodward Street in Houma in Terrebonne Parish, Louisiana and also owns and/or operates a marine vessel fabrication and painting facility located at 137 Barry Belanger Street in Houma, Terrebonne Parish, Louisiana (“the Facilities”).

II

On February 2, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. HE-CN-18-00008 attached as Exhibit A.

On March 14, 2018, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-18-00044, attached as Exhibit B.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of SIX THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$6,500.00), of which One Thousand Six Hundred Forty-Five and 70/100 Dollars (\$1,645.70) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s)/permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty, the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This 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 agreement in any action by the Department to enforce this agreement.

VII

This settlement 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, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

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

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Terrebonne Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement 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 is executed on behalf of the Department, more than forty-five (45) days have elapsed

since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit C).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

Thoma-Sea Marine Constructors, L.L.C.

BY:

[Handwritten Signature]

(Signature)

Gerard M. Thomassie

(Printed)

TITLE: Managing Director

THUS DONE AND SIGNED in duplicate original before me this 10 day of April, 20 19, at Houma LA.

[Handwritten Signature]
NOTARY PUBLIC (ID # 64697)



OFFICIAL SEAL
ROBERT C. TOUPS

#64697 - Notary Public
State of Louisiana/Parish of Terrebonne
Commissioned for Life

[Handwritten Signature]
Robert C Toups

(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chuck Carr Brown, Ph.D., Secretary

BY:

[Handwritten Signature]

Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 1st day of Oct, 20 19, at Baton Rouge, Louisiana.

[Handwritten Signature]
NOTARY PUBLIC (ID # 19181)

[Handwritten Signature]
Perry Theriot
(stamped or printed)

Approved:

[Handwritten Signature]

Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 2, 2018

CERTIFIED MAIL (7017 1070 0000 2657 7895)
RETURN RECEIPT REQUESTED

THOMA-SEA MARINE CONSTRUCTORS, L.L.C.

c/o Robert G. Jackson
Agent for Service of Process
111 Founders Drive, Suite 400
Baton Rouge, LA 70810

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-CN-18-00008
AGENCY INTEREST NO. 188954**

Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **THOMA-SEA MARINE CONSTRUCTORS, L.L.C. (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 Cynthia Arrison at (225) 219-3796 or Cynthia.Arrison@la.gov.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/CLA/cla
Alt ID No. LAR000060632
Attachment



c: Thoma-Sea Marine Constructors
c/o Traci Albarado, HSE Manager
P.O. Box 399
Bourg, LA 70343

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

IN THE MATTER OF

**THOMA-SEA MARINE CONSTRUCTORS,
L.L.C.
TERREBONNE PARISH
ALT ID NO. LAR000060632**

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

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ENFORCEMENT TRACKING NO.

HE-CN-18-00008

AGENCY INTEREST NO.

188954

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **THOMA-SEA MARINE CONSTRUCTORS, L.L.C. (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 marine vessel fabrication, painting, and repair facility located at 429 Rome Woodward Street in Houma, Terrebonne Parish, Louisiana. The Respondent is classified as a small quantity generator of hazardous waste and operates under EPA Identification No. LAR000060632.

II.

On or about June 14, 2017, and January 19, 2018, the Department conducted an inspection and subsequent file review, respectively, at the above referenced facility to determine the degree of compliance with the Act and the Hazardous Waste Regulations. While the investigation by the

Department is not yet complete, the following violations were noted during the course of the inspection and file review:

- A. The Respondent failed to clearly label or mark each container of hazardous waste with the words "Hazardous Waste" as specified in LAC 33:V.1109.E.1.d, in violation of LAC 33:V.1109.E.7. Specifically, the facility was generating greater than 100 kg of hazardous waste in a calendar month at the time of the inspection and containers should have been labeled with the words, "Hazardous Waste." The following containers in the >180 Day Storage Area of the facility were not properly labeled:
 1. Three (3) 55-gallon drums, which contained paint waste according to a facility representative, were labeled "NON-RCRA or RCRA EXEMPT CESQG Superior Labor Services containing D001, D007, D008, D035, F003, and F005."
 2. One (1) 55-gallon drum, which contained paint waste according to a facility representative, was not labeled.
 3. One (1) 5-gallon container, which contained paint waste according to a facility representative, was not labeled.
 4. One (1) 1-gallon paint can, which contained paint waste according to a facility representative, was not labeled.
- B. The Respondent failed to mark containers containing hazardous waste with an accumulation start date in accordance with LAC 33:V.1109.E.1.c, in violation of LAC 33:V.1109.E.7.c. Specifically, in the >180 Day Storage Area of the facility, the following containers described in Findings of Fact paragraph II.A were not marked with an accumulation start date: two (2) of the four (4) 55-gallon drums, one (1) 5-gallon container, and one (1) 1-gallon paint can.
- C. The Respondent failed to close a container of hazardous waste, except when it is necessary to add or remove waste in accordance with LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a. Specifically, in the >180 Day Storage Area of the facility, the following containers described in Findings of Fact paragraph II.A were not closed: two (2) of the four (4) 55-gallon drums, one (1) 5-gallon container, and one (1) 1-gallon paint can.
- D. The Respondent failed to perform hazardous waste determinations for waste materials at the facility, in violation of LAC 33:V.1103.B. Specifically, the Respondent failed to determine whether three (3) 5-gallon containers and fifteen (15) 1-gallon paint cans located in the Paint Satellite Accumulation Area were hazardous. At the time of the inspection, a facility

representative stated that one (1) of the 5-gallon containers contained “diesel or oil,” two (2) of the 5-gallon containers likely contained water, and the fifteen (15) 1-gallon paint cans contained unknown paint waste solids and liquids. Following the inspection, all of the wastes located in the Paint Satellite Accumulation Area were disposed of as hazardous waste. Hazardous waste manifests dated June 14, 2017, and July 5, 2017, were submitted to the Department on or about January 16, 2018.

- E. The Respondent failed to mark satellite accumulation containers of hazardous waste with the words “Hazardous Waste,” in violation of LAC 33:V.1109.E.4. Specifically, three (3) 5-gallon containers and fifteen (15) 1-gallon paint cans located in the Paint Satellite Accumulation Area were not labeled. Following the inspection, all of the wastes located in the Paint Satellite Accumulation Area were disposed of as hazardous waste. Hazardous waste manifests dated June 14, 2017, and July 5, 2017, were submitted to the Department on or about January 16, 2018.
- F. The Respondent failed to close satellite accumulation containers of hazardous waste as specified by LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, three (3) 5-gallon containers and fifteen (15) 1-gallon paint cans located in the Paint Satellite Accumulation Area were not closed. Following the inspection, all of the wastes located in the Paint Satellite Accumulation Area were disposed of as hazardous waste. Hazardous waste manifests dated June 14, 2017, and July 5, 2017, were submitted to the Department on or about January 16, 2018.
- G. The Respondent failed to notify the Department within seven (7) days of any changes in the information submitted in the application for the identification number, in violation of LAC 33:V.1105.B. Specifically, waste code D008 was listed on hazardous waste manifest 003079889 GBF dated April 4, 2017; however, waste code D008 was not included on the most recent HW-1 Form submitted to the Department dated October 6, 2014.
- H. The Respondent failed to use a hazardous waste manifest to ship hazardous waste offsite, in violation of LAC 33:V.1107.A.1. Specifically, hazardous waste shipped offsite by the Respondent’s painting contractor, Superior Labor Services, from years 2014-2016 was shipped with Bills of Lading instead of hazardous waste manifests. Superior Labor Services had twenty-seven (27) Bills of Lading from Heritage – Crystal Clean for the removal of “Waste Paint related material F003, F005, D001, D007, D008, D035” from the facility.

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 Hazardous Waste Regulations.

II.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers of hazardous waste, including accumulation containers, with the words "Hazardous Waste," in accordance with LAC 33:V.1109.E.7 and LAC 33:V.1109.E.4.

III.

To label or mark clearly, within thirty (30) days upon receipt of this **COMPLIANCE ORDER**, all containers in which hazardous waste is stored, including accumulation containers, with the date the container began accumulating hazardous waste, in accordance with LAC 33:V.1109.E.7.c.

IV.

To close, immediately upon receipt of this **COMPLIANCE ORDER**, all containers storing hazardous waste, including accumulation containers, and to institute procedures to ensure that containers storing hazardous waste remain closed except when necessary to add or remove waste, as specified in LAC 33:V.2107.A, in accordance with LAC 33:V.1109.E.7.a and LAC 33:V.1109.E.4.

V.

To submit to the Office of Environmental Services, within seven (7) days after receipt of this **COMPLIANCE ORDER**, an updated HW-1 notification form indicating all applicable hazardous waste codes in accordance with LAC 33:V.1105.B. A copy shall be submitted to the Enforcement Division.

VI.

To institute, immediately upon receipt of this **COMPLIANCE ORDER**, procedures to ensure a manifest is prepared and used to ship hazardous waste offsite in accordance with LAC 33:V.1107.A.1.

VII.

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: Cynthia Arrison
Re: Enforcement Tracking No. HE-CN-18-00008
Agency Interest No. 188954

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. HE-CN-18-00008
Agency Interest No. 188954

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 Department's Rules of Procedure. 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 Cynthia Arrison at (225) 219-3796 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

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

Baton Rouge, Louisiana, this 2nd day of February, 2018.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

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

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

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. | HE-CN-18-00008 | Contact Name | Cynthia Arrison |
| Agency Interest (AI) No. | 188954 | Contact Phone No. | (225) 219-3796 |
| Alternate ID No. | LAR000060632 | | |
| Respondent: | THOMA-SEA MARINE CONSTRUCTORS, L.L.C. | Facility Name: | THOMA-SEA MARINE CONSTRUCTORS |
| | c/o Robert G. Jackson | Physical Location: | 429 Rome Woodward Street |
| | Agent for Service of Process | | |
| | 111 Founders Drive, Suite 400 Baton Rouge, LA 70810 | City, State, Zip: | Houma, LA 70363 |
| | | Parish: | Terrebonne |

STATEMENT OF COMPLIANCE

| STATEMENT OF COMPLIANCE | Date Completed | Copy Attached? |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|----------------|
| A written report was submitted in accordance with Paragraph VII of the "Order" portion of the COMPLIANCE ORDER. | | |
| All necessary documents were submitted to the Department in accordance with Paragraph V of the "Order" portion of the COMPLIANCE ORDER. | | |
| All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of: | | |

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

| | |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7. |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-CN-18-00008), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures. |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-CN-18-00008), 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 (HE-CN-18-00008) and has attached a justification of its offer and a description of any BEPs if included in settlement offer. |

| CERTIFICATION STATEMENT | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------|
| <p><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></p> | | |
| | | |
| 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: Cynthia Arrison | | |



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
March 14, 2018

CERTIFIED MAIL (7017 1070 0000 2657 7932)
RETURN RECEIPT REQUESTED

THOMA-SEA MARINE CONSTRUCTORS, L.L.C.
c/o Robert G. Jackson
Agent for Service of Process
111 Founders Drive, Suite 400
Baton Rouge, LA 70810

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-PP-18-00044
AGENCY INTEREST NO. 140410**

Dear Sir:

On or about August 8, 2017, an inspection of **THOMA-SEA MARINE CONSTRUCTORS, L.L.C. – HOUMA FACILITY**, a marine vessel fabrication and painting facility, owned and/or operated by **THOMA-SEA MARINE CONSTRUCTORS, L.L.C. (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Hazardous Waste Regulations. The facility is located at 137 Barry Belanger Street in Houma, Terrebonne Parish, Louisiana.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to clearly label or mark each container of hazardous waste with the words "Hazardous Waste" as specified in LAC 33:V.1109.E.1.d, in violation of LAC 33:V.1109.E.7. Specifically, the facility was generating greater than 100 kg of hazardous waste in a calendar month at the time of the inspection and containers should have been labeled with the words, "Hazardous Waste."
 - 1. The following containers in the <180 Day Storage Area of the facility were not properly labeled:
 - a. One (1) 55-gallon drum, which was disposed of as hazardous waste on August 14, 2017, or August 25, 2017, was not labeled.
 - b. One (1) 5-gallon container, which contained waste paint thinner according to a facility representative, was not labeled.



Thoma-Sea Marine Constructors, L.L.C.
HE-PP-18-00044
Page 2

- c. One (1) 5-gallon container, which contained paint waste according to a facility representative, was not labeled.
- d. One (1) 5-gallon container, which contained dried paint waste and rainwater according to a facility representative, was not labeled.
- e. One (1) 5-gallon container, which was disposed of as hazardous waste on August 14, 2017, or August 25, 2017, was not labeled.
- f. Four (4) 1-gallon paint cans, which contained paint waste and rainwater according to a facility representative, were not labeled.

Disposal receipts were submitted to the Department on or about January 15, 2018, showing that all of the hazardous waste (waste codes D001, D035, F003, F005) located in the <180 Day Storage Area of the facility were disposed of as hazardous waste on August 14, 2017, and August 25, 2017. Additionally, a response, which included photos, was submitted to the Department dated February 22, 2018, stating that all drums containing hazardous waste have been properly labeled.

2. The following containers in the Paint Satellite Accumulation Area were not properly labeled:

- a. One (1) 55-gallon drum, which contained paint waste according to a facility representative, was not labeled.
- b. Nineteen (19) 5-gallon containers, which contained paint waste, waste paint thinner, and waste MEK according to a facility representative, were not labeled.
- c. Twenty-eight (28) paint cans, which contained paint waste according to a facility representative, were not labeled.

Disposal receipts were submitted to the Department on or about January 15, 2018, showing that all of the hazardous waste (waste codes D001, D035, F003, F005) located in the Paint Satellite Accumulation Area of the facility were disposed of as hazardous waste on August 14, 2017, and August 25, 2017. Additionally, a response, which included photos, was submitted to the Department dated February 22, 2018, stating that all drums containing hazardous waste have been properly labeled.

- B. The Respondent failed to mark containers containing hazardous waste with an accumulation start date in accordance with LAC 33:V.1109.E.1.c, in violation of LAC 33:V.1109.E.7.c. Specifically, in the <180 Day Storage Area of the facility, the following containers described in Findings of Fact paragraph II.C.1 were not marked with an accumulation start date: one (1) 55-gallon drum, four (4) 5-gallon drums, and four (4) 1-gallon paint cans. A response, which included photos, was submitted to the Department dated February 22, 2018, stating that all drums containing hazardous waste have been properly labeled and dated.
- C. The Respondent failed to close a container of hazardous waste, except when it is necessary to add or remove waste in accordance with LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.7.a. Specifically, in the <180 Day Storage Area of the facility, the following containers described in Findings of Fact paragraph II.C.1 were not closed: one (1) 55-gallon drum, four (4) 5-gallon drums, and four (4) 1-gallon paint cans. A response, which included photos, was submitted to the Department dated February 22, 2018, stating that all drums containing hazardous waste have been closed.

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- D. The Respondent failed to close satellite accumulation containers of hazardous waste as specified by LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, in the Paint Satellite Accumulation Area, the following containers described in Findings of Fact paragraph II.C.2 were not closed: one (1) 55-gallon drum, seventeen (17) 5-gallon containers, and twenty-eight (28) paint cans. A response, which included photos, was submitted to the Department dated February 22, 2018, stating that all drums containing hazardous waste have been closed.
- E. The Respondent failed to perform hazardous waste determinations for waste materials at the facility, in violation of LAC 33:V.1103.B. Specifically, the Respondent failed to determine whether the following containers of waste were hazardous:
1. The Respondent failed to determine whether one (1) 55-gallon drum and one (1) 5-gallon container located in the <180 Day Storage Area of the facility were hazardous. At the time of the inspection, a facility representative stated that both the drum and container contained waste, but was unable to identify the contents of the drum or container. A response was submitted to the Department dated February 22, 2018, stating that the 55-gallon drum and the 5-gallon container were determined to be a nonhazardous waste. An electronic response submitted to the Department dated March 19, 2018, stated that the contents of the 55-gallon drum and the 5-gallon container had a neutral pH and were determined to be oily water. The Respondent submitted nonhazardous manifests to the Department dated August 14, 2017; October 24, 2017; and November 13, 2017.
 2. The Respondent failed to determine whether one (1) 55-gallon drum labeled ROTELLA Extended Life Coolant/AF 50/50 in the <180 Day Storage Area of the facility was hazardous. At the time of the inspection, a facility representative stated that the drum contained used antifreeze. An electronic response submitted to the Department dated March 19, 2018, stated that after further evaluation, the drum was mislabeled and was determined to contain oily water. The Respondent submitted nonhazardous manifests to the Department dated August 14, 2017; October 24, 2017; and November 13, 2017.
- F. The Respondent failed to clean up a spill of hazardous waste and any contaminated materials or soil, in violation of LAC 33:V.1109.E.7.d.iv.(b). Specially, paint waste was observed on the ground near the blue storage container in the Paint Satellite Accumulation Area of the facility. A response, which included photos, was submitted to the Department dated February 22, 2018, stating that the spill was cleaned and the hardened hazardous waste was disposed of.

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.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If

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you would like to have such a meeting, please contact Cynthia Arrison at (225) 219-3796 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

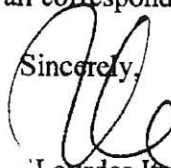
The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue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

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

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, 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 "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

LI/cia
Alt ID No. LAR000062372

c: Thoma-Sea Marine Constructors
c/o Traci Albarado
137 Barry Belanger Street
Houma, LA 70363

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**
ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312
**NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)**


| | | | |
|---------------------------------|-------------------------------------------------------|---------------------------|-----------------------------------------------------------|
| Enforcement Tracking No. | HE-PP-18-00044 | Contact Name | Cynthia Arrison |
| Agency Interest (AI) No. | 140410 | Contact Phone No. | (225) 219-3796 |
| Alternate ID No. | LAR000062372 | | |
| Respondent: | THOMA-SEA MARINE CONSTRUCTORS, L.L.C. | Facility Name: | Thoma-Sea Marine Constructors, L.L.C. - Houma Facility |
| | c/o Robert G. Jackson Agent for Service of Process | Physical Location: | 137 Barry Belanger Street |
| | 111 Founders Drive, Suite 400 | City, State, Zip: | Houma, LA 70363 |
| | Baton Rouge, LA 70810 | Parish: | Terrebonne Parish |

SETTLEMENT OFFER (OPTIONAL)
(check the applicable option)

| | |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7. |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-PP-18-00044), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures. |
| <input type="checkbox"/> | In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-PP-18-00044), 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 (HE-PP-18-00044) 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.

| | | |
|--------------------------------------|----------------------------------|---------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| Respondent's Signature | Respondent's Printed Name | Respondent's Title |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| 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: Cynthia Arrison