

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WESTLAKE STYRENE LLC

AI # 17904

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

* **Settlement Tracking No.**
* **SA-AE-23-0032**
*
* **Enforcement Tracking No.**
* **AE-CN-21-00032**
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SETTLEMENT AGREEMENT

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

I

Respondent is a limited liability company that owns and/or operates a styrene manufacturing facility and marine terminal located in Sulphur, Calcasieu Parish, Louisiana (“the Facility”).

II

On March 16, 2022, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00032 (Exhibit 1).

III

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

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FOUR THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$4,500.00), of which Nine Hundred Ninety-Seven and 32/100 Dollars (\$997.32) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement Agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

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

VI

This Settlement Agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement is being made in the interest of settling the state's claims and

avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and Settlement Agreement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

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

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement Agreement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) 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. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

XI

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

XII

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

WESTLAKE STYRENE LLC

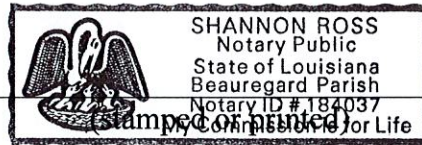
BY: J. Barry Willie
(Signature)

J. BARRY WILLIE
(Printed)

TITLE: Sr. Regional Area Manager - HSE

THIS DONE AND SIGNED in duplicate original before me this 4 day of August, 20 23, at Carlyss, LA.

Shannon Ross
NOTARY PUBLIC (ID # 184037)

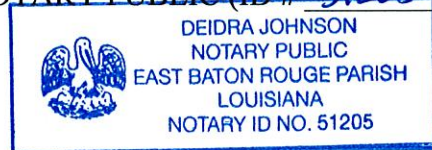


LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Roger W. Gingles, Secretary

BY: Celena J. Cage
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THIS DONE AND SIGNED in duplicate original before me this 18th day of October, 20 23, at Baton Rouge, Louisiana.

Deidra Johnson
NOTARY PUBLIC (ID # 51205)



(stamped or printed)
Lifetime Commission

Approved: Celena J. Cage
Celena J. Cage, Assistant Secretary



JOHN BEL EDWARDS
GOVERNOR

CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAR 16 2022

CERTIFIED MAIL (7019 2280 0000 4381 4027)
RETURN RECEIPT REQUESTED

WESTLAKE STYRENE LLC
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-21-00032
AGENCY INTEREST NO. 17904**

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 **WESTLAKE STYRENE LLC (RESPONDENT)** for the violation(s) described therein.

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

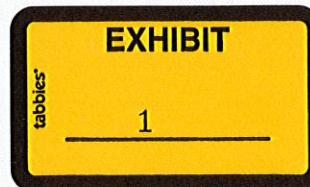
Any questions concerning this action should be directed to Gabrielle Green at (225) 219-3468 or Gabrielle.Green2@la.gov

Sincerely,

A handwritten signature in cursive script that reads "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/GJG/gig
Alt ID No. 0520-00156
Attachment



**c: Westlake Styrene LLC
c/o Westlake Chemical Investments, Inc.
2801 Post Oak Boulevard, Suite 600
Houston, TX 77056**

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

IN THE MATTER OF	*	
	*	
WESTLAKE STYRENE LLC	*	ENFORCEMENT TRACKING NO.
CALCASIEU PARISH	*	
ALT ID NO. 0520-00156	*	AE-CN-21-00032
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	17904
La. R.S. 30:2001, ET SEQ.	*	

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

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

FINDINGS OF FACT

I.

The Respondent owns and/or operates the **STYRENE MARINE TERMINAL (FACILITY)**, a styrene manufacturing facility and marine terminal, located at 1820 Pak Tank Road in Sulphur, Calcasieu Parish, Louisiana. The facility operates or has operated under the authority of the following Title V Air Permits:

TITLE V AIR PERMIT NO.	ISSUE DATE	EXPIRATION DATE
0520-00156-V4	July 9, 2019	July 9, 2024
0520-00156-V3	July 22, 2014	July 22, 2019
0520-00156-V2	August 18, 2009	August 18, 2014
0520-00156-V1	April 13, 2007	June 11, 2009

II.

On or about March 10, 2022, a file review of the facility was conducted to determine the degree of compliance with the Act and the Air Quality Regulations. While the Department's investigation is not yet complete, the following violations were noted during the course of the review:

- A. The Respondent failed to submit the 2020 Annual Criteria Pollutant Emissions Inventory and Toxics Emissions Data Inventory Certification Statement in a timely manner. Specifically, the certification statement was due on or about April 30, 2021; however, the statement was postmarked August 9, 2021. The failure to submit the emissions inventory and certification statement in a timely manner is a violation of Specific Requirement No. 184 of Title V Air Permit No. 0520-00156-V4, LAC 33:III.501.C.4, LAC33:III.919.F.1.d, LAC 33:III.5107.A, and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to submit the 2019 Annual Criteria Pollutant Emissions Inventory and Toxics Emissions Data Inventory Certification Statement in a timely manner. Specifically, the certification statement was due on or about the May 30, 2020, extended deadline; however, the statement was postmarked August 2, 2021. The failure to submit the emissions inventory and certification statement in a timely manner is a violation of Specific Requirement No. 184 of Title V Air Permit No. 0520-00156-V4, LAC 33:III.501.C.4, LAC 33:III.919.F.1.d, LAC 33:III.5107.A, and La. R.S. 30:2057(A)(2).
- C. According to the Title V 2018 Second Semiannual Monitoring Report dated March 25, 2019, the Respondent reported that the clock on 8-90 Emergency Diesel Firewater Pump (EQT0005) was not read. The Respondent is required by 40 CFR 63.6605(a) to comply with the emission limitations, operating limitations, and other requirements in 40 CFR 63 Subpart ZZZZ at all times. The Department requested additional information regarding the reported deviation in a table sent via email correspondence on July 21, 2021; however, as of March 10, 2022, the Department has not received any information. The failure to comply with the emission limitations, operating limitations, and other requirements in 40 CFR 63 ZZZZ at all times is a violation of 40 CFR 63.6605(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Specific Requirement No. 26 of Title V Air Permit No.

0520-00156-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). According to the Title V report, the Respondent changed the procedures to ensure the clock is read.

- D. According to the Title V 2017 Second Semiannual Monitoring Report dated March 28, 2018, the Respondent reported that valves and connectors were not included in the Respondent's leak detection and repair (LDAR) database for 6-90 – Fugitive Hydrocarbon Emissions (FUG0001). The Department requested the number of valves and/or connectors not found in the LDAR database in a table sent via email correspondence on July 21, 2021; however, as of March 10, 2022, the Department has not received any information. The failure to identify and include each piece of equipment subject to LDAR in the monitoring program is a violation of 40 CFR 63.162(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Specific Requirement No. 66 of Title V Air Permit No. 0520-00156-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Each failure to conduct quarterly monitoring of valves in gas/vapor service or light liquid service is a violation of 40 CFR 63.168(c), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Specific Requirement No. 98 of Title V Air Permit No. 0520-00156-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). Each failure to conduct annual monitoring of valves in gas/vapor service or liquid light service is a violation of 40 CFR 63.174(b)(3)(i), which language has been adopted as a Louisiana regulation in LAC 33:III.5122, Specific Requirement No. 138 of Title V Air Permit No. 0520-00156-V3, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). According to the Title V report, the Respondent identified components, added missing components to database, and monitored components.
- E. The Respondent failed to submit the Title V 2016 Annual Compliance Certification and Title V 2016 Second Semiannual Monitoring Report in a timely manner. Specifically, the reports were due on or about March 31, 2017; however, they were submitted to the Department on March 28, 2018. Each failure to submit the required Title V reports in a timely manner is a violation of Specific Requirement No. 176 of Title V Air Permit No. 0520-00156-V3, LAC 33:III.535 General Condition K & M, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

III.

According to the 2017 Second Title V Semiannual Monitoring Report dated March 28, 2018, the Respondent reported that emissions were reported in pounds, but the permit lists emissions in tons for benzene in the emission rate table. As a corrective action, the Respondent reported that the deviation would be corrected in the upcoming permit renewal due later in 2018. On or about December 26, 2018, the Department received the Title V permit renewal application dated December 19, 2018. Title V Air Permit No. 0520-00156-V4 was issued July 9, 2019, which showed no change in the emission rate table for benzene. The Department requested additional information regarding the reported deviation in a table sent via email correspondence on July 21, 2021; however, as of March 10, 2022, the Department has not received any information.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

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

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes the information requested in Table A.

Table A								
	Report	Permit No.	Emission Source ID	Deviation Begin Date	Deviation End Date	Reported Deviation	Corrective Action(s) Taken	Requested Information
1.	2018 Second Title V Semiannual Monitoring	0520-00156-V3	EQT0005 Diesel Firewater Pump	NA	December 1, 2018	Clock on firewater pump not read.	Changed procedures to ensure reading clock.	1. Provide additional information regarding the reported deviation, which also includes which ZZZZ Federal regulation requires readings for the firewater pump. 2. Provide the exact begin date for this deviation.

2.	2017 Second Title V Semiannual Monitoring	0520- 00156-V3	FUG0001 6-90 – Fugitive Hydrocarbon Emissions	September 2016	November 27, 2017	Upon review of PSSR's components (valves and connectors) were found not to be in LDAR monitoring database.	Identified components, added missing components to database, monitored components.	Provide the number of valves and/or connectors not found in the LDAR database.
3.	2017 Second Title V Semiannual Monitoring	0520- 00156-V3	EQT0006 Ship Dock Collection Sump	NA	NA	This deviation appears to be due to reporting emissions in pounds but the permit lists emissions in tons.	Will be corrected in upcoming permit renewal due later this year.	1. Provide the exact dates for this deviation. 2. Provide more information regarding this reported deviation. Specifically, the document where the emissions were reported in pounds instead of tons. The emission rate table for tap/hap & other pollutants for EQT0006 in Title V Air Permit No. 0520-000156- V3 does not differ from Title V Air Permit No. 0520-00156-V4. Additionally, was there a Benzene emission exceedance associated with EQT0006? If so, provide the approximate quantity exceeded in tons per year.

III.

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

Office of Environmental Compliance
 Post Office Box 4312
 Baton Rouge, Louisiana 70821-4312
 Attn: **Gabrielle Green**
 Re: **Enforcement Tracking No. AE-CN-21-00032**
Agency Interest No. 17904

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-21-00032
Agency Interest No. 17904

III.

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

IV.

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

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from

contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

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

VII.

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

NOTICE OF POTENTIAL PENALTY

I.

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

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Gabrielle Green at (225) 219-3468 or Gabrielle.Green2@la.gov 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.

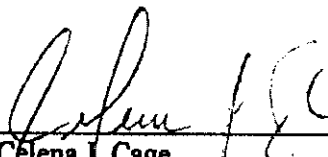
IV.

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 16th day of March, 2022.



Celena J. Cage
Assistant Secretary
Office of Environmental Compliance

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

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



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE

Enforcement Tracking No.	AE-CN-21-00032	Contact Name	Gabrielle Green
Agency Interest (AI) No.	17904	Contact Phone No.	(225) 219-3468
Alternate ID No.	0520-00156		
Respondent:	Westlake Styrene LLC	Facility Name:	Styrene Marine Terminal
	c/o C T Corporation System	Physical Location:	1820 Pak Tank Road
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Sulphur, LA 70665
	Baton Rouge, LA 70816	Parish:	Calcasieu

STATEMENT OF COMPLIANCE

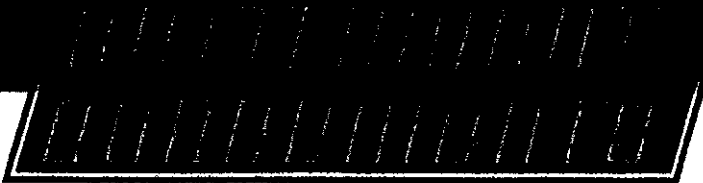
STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) ? 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00032), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00032), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00032) 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:		
<p>Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Gabrielle Green</p>		



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 33:1.705 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		
		MAJOR	MODERATE	MINOR
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

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

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

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

Nature and Gravity of the Violation

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

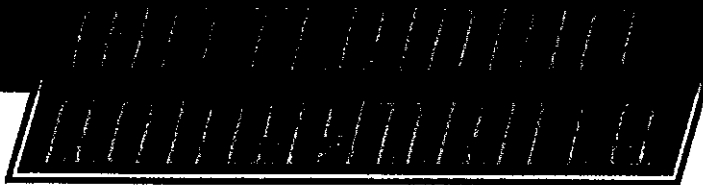
Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

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

The range is adjusted using the following violator specific factors:

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





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

