

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**ARENA INDUSTRIAL, INC.**

**AI # 105533**

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

\* **Settlement Tracking No.**  
\* **SA-AE-24-0052**  
\*  
\* **Enforcement Tracking No.**  
\* **AE-CN-23-00190**  
\*  
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**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between Arena Industrial, Inc. (“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 corporation that owns and/or operates an existing sand mining operation located in Kinder, Allen Parish, Louisiana (“the Facility”).

**II**

On May 30, 2023, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-23-00190 (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 AND NO/100 DOLLARS (\$4,000.00), of which One Thousand Three Hundred Seventy-Two and 92/100 Dollars (\$1,372.92) 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 inspection report(s), permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement Agreement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

## 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 Allen 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 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 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.

XII

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.

**ARENA INDUSTRIAL, INC.**


BY: Torie Valicevic  
(Signature)

Torie Valicevic  
(Printed)

TITLE: CFO

THUS DONE AND SIGNED in duplicate original before me this 7 day of October, 20 24, at Lafayette, LA.

Angie Faulk  
NOTARY PUBLIC (ID # 054010)


 **ANGIE FAULK**  
Notary Public ID 054010  
Vermilion Parish, LA  
My Commission is for Life  
(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Aurelia S. Giacometto, Secretary

BY: Jerry Lang  
Jerrie "Jerry" Lang, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 2nd day of January, 20 25, at Baton Rouge, Louisiana.

Deidra Johnson  
NOTARY PUBLIC (ID # 51205)

 **DEIDRA JOHNSON**  
NOTARY PUBLIC  
EAST BATON ROUGE PARISH  
LOUISIANA  
NOTARY ID NO. 51205

(stamped or printed)

Approved: Jerry Lang  
Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS  
GOVERNOR



ROGER W. GINGLES  
SECRETARY

**State of Louisiana**  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF ENVIRONMENTAL COMPLIANCE

MAY 30 2023

CERTIFIED MAIL (7022 2410 0000 7120 0147)  
RETURN RECEIPT REQUESTED

**ARENA INDUSTRIAL, INC.**  
c/o Capitol Corporate Services, Inc.  
Agent for Service of Process  
8550 United Plaza Building II, Ste. 305  
Baton Rouge, LA 70809

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-23-00190  
AGENCY INTEREST NO. 105533**

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 **ARENA INDUSTRIAL, INC. (RESPONDENT)** for the violation described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation 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 Teri Tharp at (225) 219-3165 or Teri.Tharp2@la.gov

Sincerely,

Angela Marse  
Administrator  
Enforcement Division

AM/TLT/tlt  
Alt ID No. 0060-00079  
Attachment

EXHIBIT  
1

c: **Arena Industrial, Inc.**  
**c/o Torie Valicevic**  
**PO Box 77**  
**LeBlanc, LA 70648-0077**

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

<b>IN THE MATTER OF</b>	*	
	*	
<b>ARENA INDUSTRIAL, INC.</b>	*	<b>ENFORCEMENT TRACKING NO.</b>
<b>ALLEN PARISH</b>	*	
<b>ALT ID NO. 0060-00079</b>	*	<b>AE-CN-23-00190</b>
	*	
	*	<b>AGENCY INTEREST NO.</b>
<b>PROCEEDINGS UNDER THE LOUISIANA</b>	*	
<b>ENVIRONMENTAL QUALITY ACT,</b>	*	<b>105533</b>
<b>La. R.S. 30:2001, ET SEQ.</b>	*	

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **ARENA INDUSTRIAL, INC. (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 Arena Industrial (the Facility), an existing sand mining operation, located at 291 Shorty Rollins Road in Kinder, Allen Parish, Louisiana. The Department issued Minor Source Air Permit No. 0060-00079-00 to Kinder Sand Company, LLC for operation of the facility on November 8, 2010. On or about February 20, 2015, the Department promulgated amendments to LAC 33:III.503, which established a regulatory framework setting forth maximum terms and renewal procedures for minor source permits. Per the final rule, LAC 33:III.503.C.1.a and La. R.S. 30:2023(A)(1), permits issued to minor sources of air emissions shall have an effective term of ten (10) years unless a shorter period is provided in the permit. Applications to renew existing permits that expired after January 1, 2016 were required to be submitted in accordance with LAC 33:III.503.C.3.a, at least six (6) months prior to their date of expiration.



A renewal application was not submitted to the Department, and the permit expired on November 8, 2020. The Respondent purchased the facility in a Sheriff's sale effective February 26, 2020. On February 23, 2023, the Respondent submitted a Notification of Change Form (NOC-1) notifying the Department of the change in ownership and requesting a permit transfer. On April 25, 2023, the Department notified the Respondent that Minor Source Air Permit No. 0060-00079-00 was expired and cannot be transferred. Additionally, the Respondent was instructed to evaluate the permitting needs for the facility and act accordingly.

## II.

On or about January 26, 2023 and May 9, 2023, an inspection and subsequent file review of the facility were performed 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 inspection and file review:

- A. The Respondent failed to submit a Name/Ownership/Operator Change Form (NOC-1 Form) no later than forty-five (45) days after becoming the owner/operator. Specifically, the NOC-1 form was submitted on February 23, 2023, and lists the effective date of ownership as February 26, 2020. The failure to submit the NOC-1 and associated documentation to the Department within forty-five (45) days after the change is a violation of LAC 33:I.1907.B, LAC 33:III.517.G, and La. R.S. 30:2057(A)(2).
- B. On or about November 8, 2010, the Department issued Minor Source Air Permit No. 0060-00079-00 to Kinder Sand Company, LLC. A renewal application was not submitted prior to the expiration of the permit, and Minor Source Air Permit No. 0060-00079-00 expired on November 8, 2020. As of May 9, 2023, an air permit application has not been submitted to the Department. The facility operates two sand pits, a sand dryer, and baghouse dust collectors. The respective operations were ongoing during the inspection. The unauthorized operation of the facility from February 26, 2020, until a permit is issued is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La R.S. 30:2057(A)(2).

**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 Office of Environmental Services, within sixty (60) days after receipt of this **COMPLIANCE ORDER**, an initial air permit application or submit documentation, including calculations, if an air permit is no longer required per the exemption described at LAC 33:III.501.B.2.d. A copy of either the application or calculations shall also be submitted to the Enforcement Division within sixty (60) days of receipt of the **COMPLIANCE ORDER**.

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: Teri Tharp  
Re: Enforcement Tracking No. AE-CN-23-00190  
Agency Interest No. 105533

**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-23-00190**  
**Agency Interest No. 105533**

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 Teri Tharp at (225) 219-3165 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.

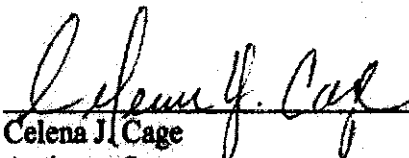
IV.

The Department assesses civil penalties based on LAC 33:J.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 30<sup>th</sup> day of May, 2023.


  
\_\_\_\_\_  
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: Teri Tharp

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-23-00190	Contact Name	Teri Tharp
Agency Interest (AI) No.	105533	Contact Phone No.	(225) 219-3165
Alternate ID No.	0060-00079		
Respondent:	Arena Industrial, Inc.	Facility Name:	Arena Industrial
	c/o Capitol Corporate Services, Inc.	Physical Location:	291 Shorty Rollins Rd.
	Agent for Service of Process		
	8550 United Plaza Building II, Ste. 305 Baton Rouge, LA 70809	City, State, Zip:	Kinder, LA 70648
		Parish:	Allen

**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 60 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

**SETTLEMENT OFFER (OPTIONAL)**

*(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-23-00190), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
- In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-23-00190), 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.
  - 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-23-00190) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

<b>CERTIFICATION STATEMENT</b>		
<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>		
<b>Respondent's Signature</b>	<b>Respondent's Printed Name</b>	<b>Respondent's Title</b>
<b>Respondent's Physical Address</b>	<b>Respondent's Phone #</b>	<b>Date</b>
<b>MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:</b>		
<p>Louisiana Department of Environmental Quality                      Office of Environmental Compliance                      Enforcement Division                      P.O. Box 4312                      Baton Rouge, LA 70821                      Attn: Teri Tharp</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			
DEGREE OF RISK TO HUMAN HEALTH OR PROPERTY	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	\$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 <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements .....	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method .....	<u>LAC 33:1 Chapter 7</u>
Beneficial Environmental Projects .....	<u>LAC 33:1 Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>

