

**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**SUPERIOR SHIPYARD AND  
FABRICATION, INC.**

**AI # 25960**

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

\* **Settlement Tracking No.**  
\* **SA-AE-25-0032**  
\*  
\*  
\* **Enforcement Tracking Nos.**  
\* **AE-CN-21-00358**  
\* **AE-CN-22-00437**  
\* **AE-PP-24-00412**  
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**SETTLEMENT AGREEMENT**

The following Settlement Agreement is hereby agreed to between Superior Shipyard and Fabrication, 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 a marine vessel maintenance, repair, and fabrication facility located in Golden Meadow, Lafourche Parish, Louisiana (“the Facility”).

**II**

On July 13, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00358 (Exhibit 1).

On July 28, 2022, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-22-00437 (Exhibit 2).

On January 3, 2025, the Department issued to Respondent a Notice of Potential Penalty,

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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Two Thousand Eight Hundred Eighty-Three and 22/100 Dollars (\$2,883.22) 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 Orders & Notices of Potential Penalty, 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 Lafourche 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 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondent by the Financial Services Division. Each payment shall be accompanied by a completed Settlement Payment Form attached hereto.

## 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.

**SUPERIOR SHIPYARD AND  
FABRICATION, INC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

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

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

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

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

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20 \_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

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

JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

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

JUL 13 2021

CERTIFIED MAIL (7019 2280 0000 4381 3945)  
RETURN RECEIPT REQUESTED

**SUPERIOR SHIPYARD AND FABRICATION, INC.**  
c/o Brent Duet  
Agent for Service of Process  
253 East 28<sup>th</sup> Street  
Cut Off, LA 70345

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-21-00358  
AGENCY INTEREST NO. 25960**

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 **SUPERIOR SHIPYARD AND FABRICATION, INC. (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.

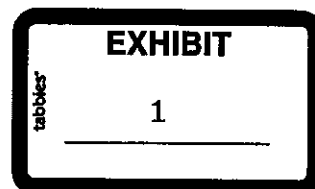
Any questions concerning this action should be directed to Gabrielle Green at (225) 219-3468 or [Gabrielle.Green2@la.gov](mailto:Gabrielle.Green2@la.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage  
Administrator  
Enforcement Division

CJC/GJG/gjg  
Alt ID No. 1560-00063  
Attachment



c: Superior Shipyard and Fabrication, Inc.  
c/o Jennifer R. Duet  
253 East 28<sup>th</sup> Street  
Cut Off, LA 70345

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

**IN THE MATTER OF**

**SUPERIOR SHIPYARD AND  
FABRICATION, INC.  
LAFOURCHE PARISH  
ALT ID NO. 1560-00063**

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

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\* **ENFORCEMENT TRACKING NO.**

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**AE-CN-21-00358**

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**AGENCY INTEREST NO.**

\*

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**25960**

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **SUPERIOR SHIPYARD AND FABRICATION, 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 a vessel maintenance, repair, and fabrication facility located at 20987 Louisiana Highway 1 in Golden Meadow, Lafourche Parish, Louisiana. The facility currently operates under the authority of Minor Source Air Permit No. 1560-00063-01 issued on August 5, 2014, and expiring August 5, 2024.

**II.**

On or about March 22 through 25, 2021, the Department received citizen complaints (Incident Nos. 201770, 201718, 201719, and 201800) concerning permitting questions and sandblasting and painting concerns at the facility.



**III.**

On or about March 29, 2021, the Department conducted a complaint inspection at the facility to determine the degree of compliance with the Act and the Air Quality Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review conducted July 8, 2021:

- A. The Respondent failed to prepare and implement a best management practices (BMP) plan. Specifically, at the time of the inspection, the BMP plan provided to the Department's inspector did not have the facility name or other information filled out and sections of the document were missing. Additionally, the Respondent told the Department's inspector that they were still working on the BMP plan and consulted with the Department's Small Business Assistance Program prior to the Department's inspection to put the BMP plan together. The failure to prepare and implement a BMP plan is a violation of Specific Requirement No. 8 of Minor source Air Permit No. 1560-00063-01, LAC 33:III.1329.A.2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). On or about May 28, 2021, the Respondent provided the Department with a copy of the completed BMP plan dated April 1, 2021.
- B. The Respondent failed to conduct training on proper abrasive blasting methods, proper handling of abrasive and spent material and floatable solids, the facility's BMP plan, and good housekeeping practices for the facility. This training is required to be provided to employees and contractors who conduct abrasive blasting at least once a year. Specifically, during the inspection, facility representatives stated that they did not conduct such training, but stated they would begin conducting training with facility personnel. This is a violation of Specific Requirement No. 18 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.1331.G, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to record visual observations of particulate matter (PM) emissions for abrasive blasting that is performed outside of a full enclosure or blasting cabinet, recorded at commencement of, and prior to ending of operations less than four (4) hours in duration, and every four (4) hours for operations greater than four (4) hours in duration. Specifically, the Respondent does not perform abrasive blasting in full enclosures; therefore, the Respondent is required to keep visible emission observation

records for each instance of abrasive blasting. During the inspection, the Respondent provided the Department's inspector with records including abrasive blasting start time, end time, and wind direction, but had no visible emission observation records. This is a violation of Specific Requirement No. 21 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.1333.A.7.a, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- D. The Respondent failed to develop a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of volatile organic compound (VOC) emissions from the facility. Specifically, at the time of the inspection, the Respondent failed to provide the Department's inspector with a VOC housekeeping plan. Additionally, while the Respondent's April 1, 2021, BMP plan includes a section entitled "BMP Housekeeping Plan", it does not provide information regarding the prevention or reduction of VOC emissions from the Facility. This is a violation of Specific Requirement No. 27 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.2113.A.4, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. The Respondent is required to monitor toxic air pollutants (TAPs) and VOCs by a technically sound method monthly to ensure compliance with the annual permit limits. During the inspection, the Department's inspector requested the method the Respondent uses to monitor TAPs and VOCs monthly. The Respondent does keep records of paint usage. However, the Respondent could not provide the Department's inspector with the method used to monitor the VOC and TAP emissions, and a representative for the facility, Stephen Cheramie, stated that the Respondent had not performed any calculations to track TAPs or VOCs. This is a violation of Specific Requirement Nos. 23 and 25 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.501.C.4, 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 and Minor Source Air Permit No. 1560-00063-01, including, but not limited to LAC 33:III.Chapter 13 & 21.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, training records for all personnel and/or contractors who conduct abrasive blasting required by LAC 33:III.1331.G, as referenced in Paragraph II.B of the **FINDINGS OF FACT**.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation that the Respondent is now conducting and documenting particulate matter visual observations required by LAC 33:III.1333.A, as referenced in Paragraph II.C of the **FINDINGS OF FACT**.

IV.

To develop and implement a written plan for housekeeping and maintenance that places emphasis on the prevention or reduction of VOC emissions from the facility, as required by LAC 33:III.2113.A, as referenced in Paragraph II.D of the **FINDINGS OF FACT**. A copy of this plan shall be submitted to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**.

V.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the following information regarding VOC and TAP emissions:

- a) The last five (5) years of monthly VOC emissions, including a description of the emissions calculation methodology used, as established by Specific Requirement No. 25 of Minor Source Air Permit No. 1560-00063-01;
- b) For any rolling twelve (12) consecutive month period during the five (5) years, report any VOC emissions greater than 22.71 tons per year, as established by Specific Requirement No. 24 of Minor Source Air Permit No. 1560-00063-01;
- c) The last five (5) years of monthly TAP emissions, including a description of the emissions calculation methodology used, as established by Specific Requirement No. 23 of Minor Source Air Permit No. 1560-00063-01;
- d) For any rolling twelve (12) consecutive month period during the five (5) years, report any TAP emissions greater than 23.86 tons per year, as established by Specific Requirement No. 22 of Minor Source Air Permit No. 1560-00063-01; and,

- e) For any TAP for which Minor Source Air Permit No. 1560-00063-01 does not list facility-wide emission limit, report any exceedance of the minimum emission rate for that TAP, as listed in Table 51.1 of LAC 33:III.Chapter 51.

VI.

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-21-00358**  
**Agency Interest No. 25960**

**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-21-00358**  
**Agency Interest No. 25960**

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.**

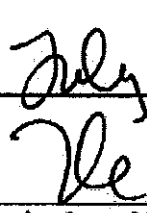
The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement 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 13<sup>th</sup> day of July, 2021.

  
\_\_\_\_\_  
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: Gabrielle Green



## LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

## OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

## CONSOLIDATED COMPLIANCE ORDER &amp;

## NOTICE OF POTENTIAL PENALTY

## REQUEST TO CLOSE

Enforcement Tracking No.	AE-CN-21-00358	Contact Name	Gabrielle Green
Agency Interest (AI) No.	25960	Contact Phone No.	(225) 219-3468
Alternate ID No.	1560-00063		
Respondent:	Superior Shipyard and Fabrication, Inc.	Facility Name:	Superior Shipyard and Fabrication, Inc.
	c/o Brent Duet	Physical Location:	20987 Highway 1
	Agent for Service of Process		
	253 East 28 <sup>th</sup> Street	City, State, Zip:	Golden Meadow, LA 7357
	Cut Off, LA 70345	Parish:	Lafourche Parish

## STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph VI 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(s) II, III, IV, V 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)

_____	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
_____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00358), 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-21-00358), 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"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$ _____</li> <li>• 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.</li> </ul>
	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00358) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.



CERTIFICATION STATEMENT		
<i>I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.</i>		
Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date
MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:		
Louisiana Department of Environmental Quality Office of Environmental Compliance Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: Gabrielle Green		

## 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
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 <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>



JOHN BEL EDWARDS  
GOVERNOR



CHUCK CARR BROWN, Ph.D.  
SECRETARY

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

JUL 28 2022

CERTIFIED MAIL (7018 3090 0002 0488 3708)  
RETURN RECEIPT REQUESTED

**SUPERIOR SHIPYARD AND FABRICATION, INC.**

c/o Brent Duet  
Agent for Service of Process  
253 East 28<sup>th</sup> Street  
Cut Off, LA 70345

**RE: CONSOLIDATED COMPLIANCE ORDER  
& NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. AE-CN-22-00437  
AGENCY INTEREST NO. 25960**

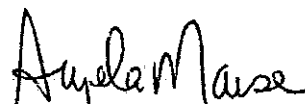
Dear Sir:

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 **SUPERIOR SHIPYARD AND FABRICATION, INC. (RESPONDENT)** for the violation(s) described therein.

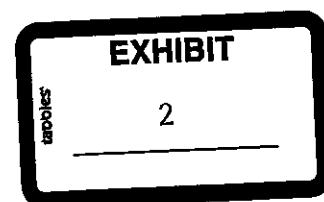
Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

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

Sincerely,

  
Angela Marse  
Administrator  
Enforcement Division

AM/GJG/gjg  
Alt ID No. 1560-00063  
Attachment



c: Superior Shipyard and Fabrication, Inc.  
c/o Jennifer R. Duet  
253 East 28<sup>th</sup> Street  
Cut Off, LA 70345

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

**IN THE MATTER OF**

**SUPERIOR SHIPYARD AND  
FABRICATION, INC.  
LAFOURCHE PARISH  
ALT ID NO. 1560-00063**

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

\*  
\*  
\*  
\* **ENFORCEMENT TRACKING NO.**  
\*  
\* **AE-CN-22-00437**  
\*  
\* **AGENCY INTEREST NO.**  
\*  
\* **25960**  
\*

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **SUPERIOR SHIPYARD AND FABRICATION, 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 a vessel maintenance, repair, and fabrication facility located at 20987 Louisiana Highway 1 in Golden Meadow, Lafourche Parish, Louisiana. The facility currently operates under the authority of Minor Source Air Permit No. 1560-00063-01 issued on August 5, 2014, and expiring August 5, 2024.

**II.**

On or about April 25, 2022, the Department received a citizen's complaint, Incident No. 208318, alleging sandblasting at the facility with inadequate containment. On or about April 25, 2022, the Department conducted a complaint inspection at the facility to determine the degree of compliance with the Act and the Air Quality Regulations. Upon arrival at the facility, the Department's inspector observed

black blasting material rising over a drooping shroud and crossing the roadway, which created a haze while leaving the facility. Additionally, the Department's inspector observed a worker above the containment conducting abrasive blasting operations on the deck of a vessel with blasting material being blown around both him and the containment. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to use adequate containment methods during sandblasting to prevent particulate matter from becoming airborne. Specifically, the screens used for containment were observed to be drooping below a point in which they would provide adequate containment, which resulted in blasting material traveling above and/or through containment and across the roadway. The failure to use adequate containment methods during sandblasting to prevent particulate matter from becoming airborne is a violation of LAC 33:III.1305.A.3, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to prevent particulate matter from passing onto or across a public road, which could result in a traffic hazard by impairment of visibility or intensifying an existing traffic hazard condition. Upon arriving at the facility, the Department's inspector observed a cloud of black blasting material hanging on the road. The failure to prevent particulate matter from passing onto or across a public road and creating a traffic hazard by impairment of visibility or intensifying an existing traffic hazard condition is a violation of Specific Requirement No. 26 of Minor Source Permit No. 1560-00063-01, LAC 33:III.501.C.4, LAC 33:III.1303.B, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to ensure all seams in containment shrouds were overlapping to prevent leakage of particulate matter. Specifically, the Department's inspector observed and photographs taken during the inspection revealed that the tarps used to control abrasive blasting emissions did not overlap. The failure to ensure all seams in containment shrouds overlap to prevent leakage of particulate matter is a violation of LAC 33:III.1329.C.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 and Minor Source Air Permit No. 1560-00063-01.

**II.**

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, documentation that abrasive blasting is being conducted in accordance with LAC 33:III.1303.B, LAC 33:III.1305.A, LAC 33:III.1329, and Minor Source Air Permit No. 1560-00063-01.

**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-22-00437  
Agency Interest No. 25960

### **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-22-00437  
Agency Interest No. 25960

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.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement

amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE" form. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.


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

Baton Rouge, Louisiana, this 22<sup>nd</sup> day of July, 2022.

  
Celeria 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

<b>LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY</b> <b>OFFICE OF ENVIRONMENTAL COMPLIANCE</b> <b>ENFORCEMENT DIVISION</b> <b>POST OFFICE BOX 4312</b> <b>BATON ROUGE, LOUISIANA 70821-4312</b>		<b>CONSOLIDATED COMPLIANCE ORDER &amp;</b> <b>NOTICE OF POTENTIAL PENALTY</b> <b>REQUEST TO CLOSE</b>		
Enforcement Tracking No.	AE-CN-22-00437	Contact Name	Gabrielle Green	
Agency Interest (AI) No.	25960	Contact Phone No.	(225) 219-3468	
Alternate ID No.	1560-00063			
Respondent:	Superior Shipyard and Fabrication, Inc. c/o Brent Duet Agent for Service of Process 259 East 28 <sup>th</sup> Street Cut Off, LA 70345	Facility Name:	Superior Shipyard and Fabrication, Inc.	
		Physical Location:	20987 Louisiana Highway 1	
		City, State, Zip:	Golden Meadow, LA 70357	
		Parish:	Lafourche Parish	
<b>STATEMENT OF COMPLIANCE</b>				
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(s) 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:				
<b>SETTLEMENT OFFER (OPTIONAL)</b>				
<i>(check the applicable option)</i>				
_____	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:I.Subpart 1.Chapter 7.			
_____	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00437), 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-22-00437), 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.			
	<ul style="list-style-type: none"> <li>• Monetary component = \$ _____</li> <li>• Beneficial Environmental Project (BEP) component (optional) = \$ _____</li> <li>• 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.</li> </ul>			
	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-22-00437) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.			
<b>CERTIFICATION STATEMENT</b>				
<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>				

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

## 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 33:1705 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
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 <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements .....	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method .....	<u>LAC 33:I Chapter 7</u>
Beneficial Environmental Projects .....	<u>LAC 33:I Chapter 25</u>
	<u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>



**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**OFFICE OF ENVIRONMENTAL COMPLIANCE**  
**ENFORCEMENT DIVISION**  
**POST OFFICE BOX 4312**  
**BATON ROUGE, LOUISIANA 70821-4312**

**NOTICE OF POTENTIAL PENALTY**



Enforcement Tracking No.	AE-PP-24-00412	Certified Mail No.	7019 1120 0000 2352 7277
Agency Interest (AI) No.	25960	Contact Name	James "Bailey" Macmurdo
Alternate ID No.	LA0000002205700063	Contact Phone No.	(225) 219-2141
Respondent:	Superior Shipyard and Fabrication, Inc.	Facility Name:	Superior Shipyard and Fabrication, Inc.
	c/o Troy Parria	Physical Location:	20987 Louisiana Highway 1
	Agent for Service of Process		
	273 Joshua Reed Drive	City, State, Zip:	Golden Meadow, LA 70357
	Houma, LA 70360	Parish:	Lafourche

This **NOTICE OF POTENTIAL PENALTY** is issued 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 30:2050.3(B).

**FINDINGS OF FACT**

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I.	The Respondent owns and/or operates a marine vessel maintenance, repair, and fabrication shop located at 20987 Louisiana Highway 1 in Golden Meadow, Lafourche Parish, Louisiana. The facility currently operates under Minor Source Air Permit No. 1560-00063-02, issued August 13, 2024. The facility previously operated under Minor Source Air Permit No. 1560-00063-01, issued August 5, 2014, which expired August 5, 2024.	
	<b>Date of Violation</b>	<b>Description of Violation</b>
II.	Inspection May 13, 2024	The Respondent failed to provide training pertaining to the Best Management Practices (BMP) Plan at least once a year or when significant changes are made to the plan that affect their activities. Specifically, at the time of the inspection, the Respondent had last provided training on January 14, 2022, and the Respondent failed to conduct training pertaining to the BMP Plan in 2023. Failure to provide training pertaining to the BMP Plan at least once a year or when significant changes are made to the plan that affect personnel activities is a violation of LAC 33:III.1331.G.2, Specific Requirement No. 18 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). The Respondent conducted training pertaining to the BMP Plan with all on-site personnel on May 14, 2024.
III.	Inspection May 13, 2024	The Respondent failed to maintain documentation of employee and contractor training, including dates, subjects, and hours of training and a list of attendees with signatures. Specifically, the Respondent's most recent training records documented a training conducted on January 14, 2022; however, did not list the hours of training. The failure to maintain documentation of employee and contractor training, including hours of training, is a violation of LAC 33:III.1331.H.2.b, Specific Requirement No. 20 of Minor Source Air Permit No. 1560-00063-01, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2). In correspondence dated May 14, 2024, the Respondent's representative submitted documentation of a training session conducted on May 14, 2024, which included all requirements of LAC 33:III.1331.H.2.b.
IV.	File Review October 3, 2024	The Respondent failed to submit the Minor Source Air Permit Renewal application at least six (6) months prior to the expiration date of the permit. Specifically, Minor Source Air Permit No. 1560-00063-01 expired on August 5, 2024, and the renewal application was due by February 5, 2024. On or about February 21, 2024, the Department received a permit application dated February 9, 2024, from the Respondent. The Department issued Minor Source Air Permit No. 1560-00063-02 on August 13, 2024. The failure to timely submit a Minor Source Air Permit renewal application is a violation of LAC 33:III.503.C.3.a and La. R.S. 30:2057(A)(2). The unauthorized operation of the facility from August 5, 2024, until August 13, 2024, 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).

**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.
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**EXHIBIT**

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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 James "Bailey" Macmurdo at (225) 219-2141 within ten (10) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY</b> .
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 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 <b>NOTICE OF POTENTIAL PENALTY</b> . 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.
IV.	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.
V.	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.

### CONTACT AND SUBMITTAL OF INFORMATION

<b>Enforcement Division:</b>	<b>Physical Address (If hand delivered):</b>
Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division P.O. Box 4312 Baton Rouge, LA 70821 Attn: James "Bailey" Macmurdo	Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

### HOW TO REQUEST CLOSURE OF THIS NOTICE OF POTENTIAL PENALTY

To expedite closure of the **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 Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- 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.
- The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.
- **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.

If you have questions or need more information, you may contact James "Bailey" Macmurdo at (225) 219-2141 or [bailey.macmurdo@la.gov](mailto:bailey.macmurdo@la.gov).

  
Jerry Lang  
Assistant Secretary  
Office of Environmental Compliance

Date: 1/3/2025

cc: Superior Shipyard and Fabrication, Inc.  
c/o Mr. Brent Duet  
20987 Louisiana Highway 1  
Golden Meadow, LA 70357

#### Attachments

- Request to Settle
  - Settlement Brochure
- AE-PP-24-00412


**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)**

<b>Enforcement Tracking No.</b>	AE-PP-24-00412	<b>Contact Name</b>	James "Bailey" Macmurdo
<b>Agency Interest (AI) No.</b>	25960	<b>Contact Phone No.</b>	(225) 219-2141
<b>Alternate ID No.</b>	LA0000002205700063		
<b>Respondent:</b>	Superior Shipyard and Fabrication, Inc.	<b>Facility Name:</b>	Superior Shipyard and Fabrication, Inc.
	c/o Troy Parria	<b>Physical Location:</b>	20987 Louisiana Highway 1
	Agent for Service of Process		
	273 Joshua Reed Drive	<b>City, State, Zip:</b>	Golden Meadow, LA 70357
	Houma, LA 70360	<b>Parish:</b>	Lafourche

**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 <b>NOTICE OF POTENTIAL PENALTY (AE-PP-24-00412)</b> , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this <b>NOTICE OF POTENTIAL PENALTY (AE-PP-24-00412)</b> .
<input type="checkbox"/>	<p>In order to resolve any claim for civil penalties for the violations in <b>NOTICE OF POTENTIAL PENALTY (AE-PP-24-00412)</b>, 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.</p> <ul style="list-style-type: none"> <li>• Monetary component = \$_____</li> <li>• Beneficial Environmental Project (BEP) component (optional)= \$_____</li> <li>• <b><u>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM</u></b>- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.</li> </ul> <p>The Respondent has reviewed the violations noted in <b>NOTICE OF POTENTIAL PENALTY (AE-PP-24-00412)</b> and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>

**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.*

<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>

**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: James "Bailey" Macmurdo

If you have questions or need more information, you may contact James "Bailey" Macmurdo at (225) 219-2141 or [bailey.macmurdo@la.gov](mailto:bailey.macmurdo@la.gov).

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

