



# Enforcement 101

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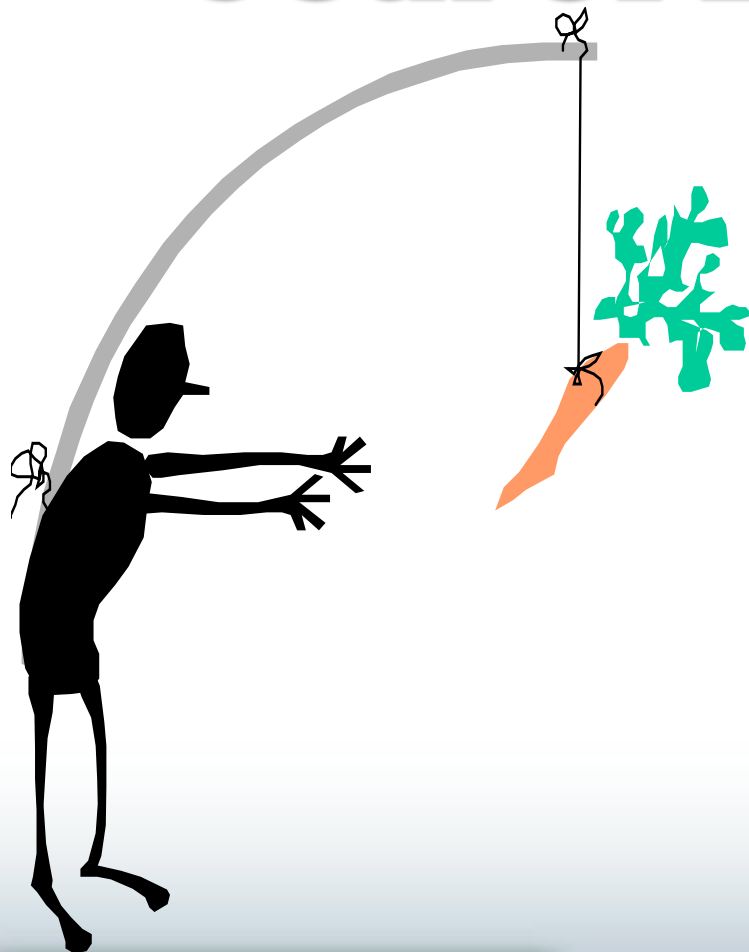




# Enforcement



# Goal of Enforcement



- To compel compliance with or obedience to the environmental regulations applicable to a site or an individual
- **In other words – obtain compliance**



# **The Process**



# Where do cases originate?

- Referrals
  - Surveillance Division
  - Env. Technology Division
  - Remediation Division
  - Permits Division
- File Reviews
- Self-Reported Violations





**What happens  
to the referral  
once it is  
received by  
enforcement?**

# **Enforcement Writer**



- **Reviews case for evidence of violation**
- **Considers nine factors to determine need for a penalty assessment**
- **Prepares action appropriate to violation type and severity/Requests additional information or evidence/Recommends no further action for the referral**





# Legal Review



- Reviews case (inspection report, referral, old documents, permits, etc.) for evidence of violation
- Reviews draft action for accuracy of violation and appropriateness of proposed action
- Approves action/Requests additional information/Determines case should not go forward





# Approved Actions



- Issued under signature of Assistant Secretary of OEC
- All Respondents have 30 days from the receipt of the action to request a hearing for formal actions
- Legal Division accepts or denies hearing requests
- Cases that have hearing requests accepted enter “the appeals process”





# **Final Actions**

- **Actions that are not appealed or have the hearing request denied are final actions 30 days after receipt by the Respondent.**
- **Non-compliance with a final order can be made executory in the 19<sup>th</sup> JDC**
- **Non-compliance with the court order can lead to the Respondent being held in contempt of court.**





# **No Further Action Cases/Violations**

- **Insufficient Evidence**
- **No Responsible Party can be determined or the Responsible Party cannot be located**
- **No violation occurred**
- **Memo is sent to EDMS documenting that case/violation will not be pursued and reasons**





**What  
evidence  
must we  
have to  
prove the  
violation?**



**Who?**

**Where?**

**What?**

**How?**

**When?**

**How  
much?**





# Who?

- Who committed the violation?
- Who gave us information about the violation?
- Who made statements that provided us with knowledge to prove the violation?
- Who is the responsible party?





# What?

- **What happened?**
- **What was supposed to happen or what was not supposed to happen?**
- **What physical evidence do we have to prove this?**
  - **Written documents**
  - **Photographs**
  - **Copies of operating logs**





# When?

- **When did the violation occur?**
  - When did it begin?
  - When did it end?
- **When did you find out about it?**







# Where?

- **Where did the violation occur?**
  - Did it cause environmental damage?
  - Was the damage mitigated?
- **Where did an unauthorized release go?**
- **Where should the material have gone?**



# How?

- **How did the violation happen?**
  - Human error
  - Faulty equipment
  - Act of God
  - Intentional act



# How?

- **How did we find out about it?**
  - **Was it self-reported?**
  - **Was it found during an inspection?**
  - **Was there an attempt to hide the information?**





# How much?

- How much (quantity) was the release?
- How many drums were unlabeled?
- How many days/weeks/months/years late was the notification of contamination?





# Successful Cases



- **Violations supported by:**
  - Physical evidence
  - Photographs
  - Written documents
  - Specific facts and the name and title of person providing information
- **Good communication between referring group and enforcement**



# Enforcement's Role

- To be a team member that supports the other Divisions by being a mechanism for ensuring compliance in the regulated community





# **In closing...**

- **All referrals are evaluated for non-compliance with the regulations and/or statutes**
- **Some cases/violations do not go forward for various reasons**
- **Most cases are successfully completed and closed**





# Questions?







# **BENEFICIAL ENVIRONMENTAL PROJECTS (BEPS)**

**CHERYL EASLEY**





# WHAT IS A BEP?



**A Company can enter into a Settlement Agreement for violations that are discovered or self-disclosed and/or cited in an Enforcement Action**

**A BEP is an environmentally beneficial project that a company agrees to undertake when entering into a Settlement Agreement.**





# BEPS



- **Although the Department will consider BEPs in settlements of violations and penalties, not all settlements contain BEPs.**
- **BEPs are just a part of the settlements along with cash penalties.**
- **BEPs are not mandatory!!!!!!!**



# BEP REGULATION



- **Environmental Regulatory Code  
–LAC 33:I.Chapter 25**
- **Project must fall within one of  
the categories listed in the  
regulation**



# PROJECT CATEGORIES



- **Public Health**
- **Pollution Prevention**
- **Pollution Reduction**
- **Environmental Restoration & Protection**



# PROJECT CATEGORIES



- **Assessments & Audits**
- **Environmental Compliance Promotion**
- **Emergency Planning, Preparedness, and Response**
- **Other Projects**





# BEP EXAMPLES



- **Environmental Compliance Promotion**
  - Louisiana Envirothon – project that provides students with experience in environmentally-oriented activities, enabling them to become environmentally aware, action-oriented citizens





# BEP EXAMPLES



- **Emergency Planning, Preparedness, and Response**
  - Installation of a system to predict plume tracking and concentration levels for air and/or liquid releases. The system can also be used to develop pre-planning scenarios to enable effective emergency response plans and assist government agencies in their response





# BEP EXAMPLES



- **Pollution Reduction**
  - Funds to create Household Hazardous Waste Programs throughout the state. Such programs include one day community collection programs.
- **Environmental Restoration and Protection**
  - Creation of an artificial reef



# HOW DO I SUBMIT A BEP



- **Mail proposal to:**  
**Enforcement Division**  
**Post Office Box 4312**  
**Baton Rouge, LA 70821-4312**  
**OR**
- **Online form on DEQ's website**  
**[www.deq.la.gov](http://www.deq.la.gov)**  
**Divisions/Enforcement/Propose a BEP**



# DEQ in 2010

## Office & Division Contact Information



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# DEQ in 2010



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