

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

RAPIDES REGIONAL MEDICAL CENTER

AI # 2971

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-RE-11-0009
*
* Enforcement Tracking No.
* RE-PP-07-0022
* RE-PP-07-0022A
*
*
*

SETTLEMENT

The following Settlement is hereby agreed to between Rapides Regional Medical Center (“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 radiation treatment facility located in Alexandria, Rapides Parish, Louisiana (“the Facility”).

II

On June 25, 2007, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. RE-PP-07-0022, which was based upon the following findings of fact:

On or about March 27, 2006, and March 8, 2007, inspections of Rapides Regional Medical Center, owned and/or operated by Rapides Regional Medical Center (Respondent), were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Radiation Protection Regulations. The facility is located at 211 4th Street in Alexandria, Rapides Parish, Louisiana.

The following violations were noted during the course of the inspection:

- A. On or about March 27, 2006, an inspector noted that the Respondent failed to control the occupational dose to individual adults, except for planned special exposures pursuant to LAC 33:XV.415, to an annual total effective dose limit of 0.05 Sv (5 rem), in violation of LAC 33:XV.410.A.1.
- B. On or about March 27, 2006, an inspector noted that the Respondent failed to submit a written report to the Office of Environmental Compliance using the procedures provided in LAC 33:I.3925.B and C within 30 days after learning of occurrences in which there were doses in excess of the occupational dose limits for adults specified in LAC 33:XV.410, in violation of LAC 33:XV.487.A.2.
- C. On or about March 27, 2006, an inspector noted that the Respondent failed to ensure that for each stationary general purpose x-ray system, the indication of the field size dimensions and SID's shall be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor that correspond to those indicated by the beam-limiting device to within 2 percent of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor, in violation of LAC 33:XV.606.A.2.c.
- D. On or about March 27, 2006, an inspector noted that the Respondent failed to ensure that for each general purpose x-ray system, the deviation of technique factors did not exceed 10 percent of the indicated value, in violation of LAC 33:XV.606.F.
- E. On or about March 8, 2007, an inspector noted that the Respondent failed to test each dose calibrator for linearity upon installation and at intervals not to exceed three months, in violation of LAC 33:XV.715.B.3. This is a repeat area of concern noted during an inspection conducted on or about March 22, 2005.

On September 29, 2009, the Department issued to Respondent an Amended Notice of Potential Penalty, Enforcement No. RE-PP-07-0022A, amending the Notice of Potential Penalty, Enforcement No. RE-PP-07-0022, to include the following:

- F. During the course of a file review conducted on or about June 26, 2009, it was noted that the Respondent failed to maintain their diagnostic x-ray systems and their associated components used on humans and certified pursuant to the federal X-ray equipment performance standard in compliance with all applicable requirements of the standard, in violation of LAC 33:XV.604.A.9.

The Department incorporated all of the remainder of the original Notice of Potential Penalty, Enforcement Tracking No. RE-PP-07-0022 and Agency Interest No. 2971 as if reiterated therein.

The Amended Notice of Potential Penalty was effective upon receipt.

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 SEVEN THOUSAND TWO HUNDRED SIXTY-NINE AND 05/100 DOLLARS (\$7,269.05), of which Nine Hundred Sixty-Nine and 05/100 Dollars (\$ 969.05) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

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

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any

right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

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

IX

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

X

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

XI

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.

RAPIDES REGIONAL MEDICAL CENTER

BY: [Signature]
(Signature)

DAVID WILLIAMS
(Printed)

TITLE: CEO

THUS DONE AND SIGNED in duplicate original before me this 5th day of October, 20 11, at Alexandria, LA.

[Signature]
NOTARY PUBLIC (ID # 19781)

DEBORAH F. WATSON #19781
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 5th day of January, 20 12, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20590)
Baton Rouge #

[Signature]

Debra King
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary