

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	Settlement Tracking No.
	*	SA-AE-23-0015
RODGERS HOMES AND CONSTRUCTION, INC.	*	
	*	
AI # 223686	*	Enforcement Tracking No.
	*	AE-CN-21-00232
	*	
PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, <u>ET SEQ.</u>	*	

SETTLEMENT

The following Settlement is hereby agreed to between Rodgers Homes and Construction, 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 residential construction company that was contracted to demolish a building located in Bossier City, Bossier Parish, Louisiana (“the Site”).

II

On July 1, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-21-00232 (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 FIVE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$5,500.00), of which Eight Hundred Forty and 31/100 Dollars (\$840.31) 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 Consolidated Compliance Order & 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

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 Bossier Parish, Louisiana. The advertisement, in form and wording 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.

X

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

XI

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

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.

**RODGERS HOMES AND
CONSTRUCTION, INC.**

BY: [Signature]
(Signature)

Philip Rodgers
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this 11 day of July, 20 23, at Bossier Parish, Louisiana.

[Signature]
NOTARY PUBLIC (ID # _____)



JOY C. MITCHELL
Notary Public
No. 154814
State of Louisiana
Commission for Life

**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Roger W. Gingles, Secretary


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

THUS DONE AND SIGNED in duplicate original before me this 2nd day of October, 20 23, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 66881)

Jay Glorioso
(stamped or printed)

Approved: [Signature]
Celena J. Cage, Assistant Secretary

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE		CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY		
ENFORCEMENT DIVISION POST OFFICE BOX 4312 BATON ROUGE, LOUISIANA 70821-4312				
Enforcement Tracking No.	AE-CN-21-00232	Certified Mail No.	7020 1810 0000 5261 0218	
Agency Interest (AI) No.	223686	Contact Name	Gabrielle Green	
Alternate ID No.	N/A	Contact Phone No.	(225) 219-3468	
Respondent:	Rodgers Homes and Construction, Inc.	Facility Name:	Former Cobb's Bar-B-Q	
	c/o Philip Rodgers	Physical Location:	203 McCormick Street	
	Agent for Service of Process	City, State, Zip:	Bossier City, LA 71111	
	9308 Mansfield Road, Suite 500 Shreveport, LA 71118	Parish:	Bossier	
This CONSOLIDATED COMPLIANCE ORDER & 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 particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).				
FINDINGS OF FACT				
<i>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>				
I.	The Respondent, Agency Interest No. 223689, is a residential construction company. The Respondent was contracted to demolish the building known to the Department as Cobb's Bar-B-Q (the Site, Agency Interest No. 223686), located at 203 McCormick Street in Bossier City, Bossier Parish, Louisiana. The Respondent is not a certified asbestos abatement company.			
	On or about June 12, 2020, the Department received a citizen's complaint, incident No. T-197306, alleging that there was asbestos in the building, that it was being demolished with no control measures taken to contain asbestos debris, and that the demolition crew was not accredited for asbestos work.			
	On or about June 23, 2020, the Department conducted an inspection of the Site to determine the degree of compliance with the Act and the Air Quality Regulations. At the time of the inspection, the building had been completely demolished, and all of the demolition debris had been removed from the Site. Multiple homes and commercial businesses are located in close proximity of the Site. In phone interviews with the Department's inspector on July 20, 2020, and November 16, 2020, Mr. Philip Rodgers, director of Rodgers Homes and Construction, Inc., stated he was hired by Lisa Cobb Madden, owner of Cobb's Bar-B-Q, to perform the demolition. He also stated the building was not inspected by an accredited asbestos inspector prior to the demolition and the workers performing the demolition were not asbestos accredited.			
	A file review conducted on or about June 23, 2021, revealed Mr. Rodgers is not an accredited asbestos contractor, supervisor, or inspector. Additionally, the Department has not received documentation of the disposal of the demolition debris from the Site.			
	Furthermore, since an asbestos inspection and notification were not completed prior to the demolition, all debris generated from the demolition is categorized as asbestos-containing debris (ACD), which contains regulated asbestos-containing material (RACM) in accordance with LAC 33:III.5151.F.1.d.			
	Date of Violation	Description of Violation		
II.	Inspection(s)	Prior to the commencement of a demolition or renovation activity, the Respondent must either assume RACM is present or have an accredited asbestos inspector thoroughly inspect the affected facility for the presence of asbestos. An asbestos inspection was not conducted by an accredited asbestos inspector prior to the demolition on or about June 9, 2020. The failure to thoroughly inspect the affected facility or part of the facility where the activity will occur for the presence of asbestos is a violation of LAC 33:III.5151.F.1 and La. R.S. 30:2057(A)(2).		
	June 23, 2020			
III.	Inspection(s)	The Respondent failed to provide the Office of Environmental Services with a typed notice of intention to demolish by completing and submitting the latest version of Notification of Demolition and Renovation Form and Asbestos Contaminated Debris Activity Form (AAC-2) and fees, if applicable, prior to conducting demolition activities. Specifically, at the time of the inspection, the demolition was complete, and all debris had been removed from the demolition site. The failure to notify the Office of Environmental Services prior to the commencement of the demolition by submitting the AAC-2 Form along with applicable fees is a violation of LAC 33:III.5151.F.1.1, LAC 33:III.5151.F.2.a, and La. R.S. 30:2057(A)(2).		
	June 23, 2020			
IV.	Inspection(s)	The Respondent failed to use asbestos accredited personnel when performing demolition activities which disturbed RACM and ACD. Specifically, an accredited asbestos contractor/supervisor nor accredited workers were present during the demolition according to Mr. Philip Rodgers. This a violation of LAC 33:III.5151.F.3.h, LAC 33:III.5151.P, and La. R.S. 30:2057(A)(2).		
	June 23, 2020			
V.	Inspection(s)	At the time of the inspection, there was no building remaining and the waste generated from the demolition was no longer on-site. The Department did not observe the demolition or handling of the ACD. Additionally, the Department has not received documentation of disposal of the ACD, and, thus, is unable to determine if the ACD was handled and disposed of in accordance with LAC 33:III.5151.F.3 and LAC 33:III.5151.Subsection J as required by LAC 33:III.5151.F.1.d.		
	June 23, 2020			
ORDER				
Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:				
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. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.			



II.	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 the Department at the address specified in this document.
III.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , receipts or documentation of the disposal of the debris generated from the demolition activity, as referenced in FINDINGS OF FACT Paragraph V of this COMPLIANCE ORDER .
RIGHT TO APPEAL	
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 address specified in this document.
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 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 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 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 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.	The Department assesses civil penalties based on LAC 33:1.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.
CONTACTS AND SUBMITTAL OF INFORMATION	
Enforcement Division:	Hearing Requests:


Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Gabrielle Green	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-21-00232 Agency Interest No. 223686
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Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Air Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802
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**HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY**

- To appeal the COMPLIANCE ORDER portion, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this COMPLIANCE ORDER.
- To request closure of this CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY, the Respondent must demonstrate compliance with the "Order" portion of this COMPLIANCE ORDER by completing the attached "CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL REQUEST TO CLOSE" form and returning it to the address specified.
- To expedite closure of the 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 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.
- **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 Gabrielle Green at (225) 219-3468 or Gabrielle.Green2@la.gov.



 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 2/1/2021

- Attachment(s)**
- Request to Close
 - Settlement Offer Brochure



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

Enforcement Tracking No.	AE-CN-21-00232	Contact Name	Gabrielle Green
Agency Interest (AI) No.	223686	Contact Phone No.	(225) 219-3468
Alternate ID No.	N/A		
Respondent:	Rodgers Homes and Construction, Inc.	Facility Name:	Former Cobb's Bar-B-Q
	c/o Phillip Rodgers Agent for Service of Process	Physical Location:	203 McCormick Street
	9308 Mansfield Road, Suite 500	City, State, Zip:	Bossier City, LA 71111
	Shreveport, LA 71118	Parish:	Bossier Parish

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II 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 III of the "Order" portion of the COMPLIANCE ORDER.		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00232), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00232) the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional) = \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-21-00232) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

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.

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

SETTLEMENT AGREEMENTS

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	\$20,000	\$15,000
	to \$20,000	to \$15,000	to \$11,000
MODERATE	\$11,000	\$8,000	\$5,000
	to \$8,000	to \$5,000	to \$3,000
MINOR	\$3,000	\$1,500	\$500
	to \$1,500	to \$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.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times [\text{Penalty Event Maximum} - \text{Penalty Event Minimum}])$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in EDMS using the following filters Media: Air Quality, Function: Enforcement, Description: Settlement
Settlement Agreements	Enforcement Division's website specific examples can be provided upon request
Penalty Determination Method	LAC 33:1 Chapter 7
Beneficial Environmental Projects	LAC 33:1 Chapter 25 FAQs
Judicial Interest.....	provided by the Louisiana State Bar Association

