

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

KLOECKNER METALS CORPORATION

AI # 32513

PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT

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

\* Settlement Tracking No.  
\* SA-MM-18-0055  
\*  
\* Enforcement Tracking No.  
\* MM-PP-17-00436  
\*  
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SETTLEMENT

The following Settlement is hereby agreed to between Kloeckner Metals Corporation (“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 non-Louisiana corporation that owns and/or operates a metal services facility located at 4501 North Miro Street, New Orleans, Orleans Parish, Louisiana (“the Facility”).

II

On December 20, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. MM-PP-17-00436, attached as Exhibit A.

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 THIRTY-THREE THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS (\$33,700.00), of which One Thousand Thirty-Seven and 89/100 Dollars (\$1,037.89) represents the Department's response costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent in 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 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 Orleans 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 (Exhibit B).

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.

**Kloeckner Metals Corporation**

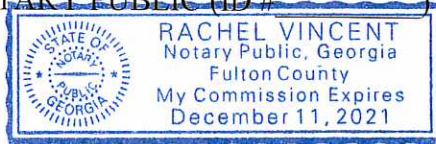
BY: Bat G. Clifford  
(Signature)

Bat G. Clifford  
(Printed)

TITLE: COO

THUS DONE AND SIGNED in duplicate original before me this 26 day of February, 20 19, at \_\_\_\_\_.

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



(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]  
\_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 19<sup>th</sup> day of June, 20 19, at Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC (ID # 19181)

Perry Theriot  
(stamped or printed)

Approved: [Signature]  
\_\_\_\_\_  
Lourdes Iturralde, Assistant Secretary



JOHN BEL EDWARDS  
GOVERNOR

CHUCK CARR BROWN, PH.D.  
SECRETARY

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

December 20, 2017

CERTIFIED MAIL (7012 3460 0001 0423 4090)  
RETURN RECEIPT REQUESTED

**KLOECKNER METALS CORPORATION**  
c/o C T Corporation System  
Agent for Service of Process  
3867 Plaza Tower Drive  
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY  
ENFORCEMENT TRACKING NO. MM-PP-17-00436  
AGENCY INTEREST NO. 32513**

Dear Sir/Madam:

On or about December 14, 2017, a file review of **KLOECKNER METALS CORPORATION – NEW ORLEANS FACILITY**, a metals services facility, owned and/or operated by **KLOECKNER METALS CORPORATION (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality and Hazardous Waste Regulations. The facility is located at 4501 North Miro Street in New Orleans, Orleans Parish, Louisiana. The facility previously operated under Minor Source Air General Permit No. 2140-00122-01 issued on November 13, 2008. The facility currently operates under Minor Source Air General Permit No. 2140-00122-02 issued on June 14, 2016. The Respondent notified as a large quantity generator (LQG) of hazardous waste and operates under the EPA facility identification number LAR000089995.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the file review:

- A. On or about September 28, 2012, the Respondent submitted a Permit Limitation Exceedance Notification Report. The report stated that multiple failures associated with RTO-1 – Regenerative Thermal Oxidizer (EQT0008) occurring in 2012 resulted in the uncontrolled emission of approximately 8.1 tons of volatile organic compounds (VOCs) over twenty (20) days. A summary of the emissions events is as follows:

Month	Total VOCs Emitted (pounds)	Duration (hours)
January	32.5	0.5



## KLOECKNER METAL CORPORATION

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Month	Total VOCs Emitted (pounds)	Duration (hours)
February	3333.3	92
March	1436.3	53
April	677.5	26
May	108.4	3
June	3821.1	90.5
July	5046	157
August	1810.3	58
<b>Total</b>	<b>16265.4</b>	<b>480</b>

The Respondent determined that the primary cause of the failures was the need for more routine preventative maintenance procedures to avoid blockages occurring in the heat exchange media. Each failure is a violation of LAC 33:III.905 which states, "When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded." Each failure is also a violation of Minor Source Air General Permit No. 2140-00122-01 Louisiana General Condition I, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).

- B. The Respondent failed to submit a quarterly written report to address emission limitation exceedances for the 1st quarter monitoring period of 2012. Specifically, the Respondent did not submit a quarterly report to address the emission limitation exceedances mentioned above in paragraph A occurring from January through March of 2012. This reporting failure is a violation of Minor Source Air General Permit No. 2140-00122-01 Louisiana General Condition XI.C, LAC 33:III.501.C.4 and La. R.S. 30:2057(A)(2).
- C. On or about February 6, 2013, the Respondent submitted a Notification of VOC Emissions for 2012. The notification stated that the facility's emissions were 17.31 tons of VOCs in 2012 with a permit limit of 14.31 tons. This is a violation of Minor Source Air General Permit No. 2140-00122-01, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In the February 6, 2013, Notification of VOC Emissions for 2012 the Respondent states that the exceedance was caused by disturbances in the Regenerative Thermal Oxidizer (RTO). In July 2012 the Respondent hired outside consultants to address the RTO disturbances. It was determined that the RTO disturbances were caused by blockages in the structured ceramic heat exchange media in the RTO. The Respondent implemented routine preventative maintenance procedures to avoid future blockages and emissions for October, November, and December 2012 returned to normal levels.
- D. On or about January 31, 2014, the Respondent submitted a Notification of VOC Emissions for 2013. The notification stated that the facility's emissions were 15.62 tons of VOCs in 2013 with a permit limit of 14.31 tons. This is a violation of Minor Source Air General Permit No. 2140-00122-01, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In the January 31, 2014, Notification of

## KLOECKNER METAL CORPORATION

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VOC Emissions for 2013 the Respondent states that the RTO continued to experience disturbances as described in the February 6, 2013, Notification of VOC Emissions for 2012. As a result of the continued disturbances the Respondent replaced the Reeco RL-25 RTO combustion chamber with a reconditioned Adwest 12,000 cfm combustion chamber in December 2013.

- E. On or about May 5, 2017, the Respondent submitted a noncompliance report to the Department stating that from October 2011 through March 2016 the Respondent switched from using an ethylbenzene and xylene based solvent to a toluene based solvent. The facility's Minor Source Air General Permit No. 2140-00122-02 authorizes the emissions of ethylbenzene and xylene but not toluene. The Respondent reported that 7,370 gallons of toluene were used during this time period resulting in 1.1 tons of toluene released as fugitive emissions (FUG0001) and 0.24 tons released from EQT0008. The sources were permitted but not for toluene emissions. This is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2). In the report dated May 5, 2017, the Respondent states that the facility switched from toluene back to ethylbenzene and xylene based solvent in March 2016.
- F. On or about May 5, 2017, the Respondent submitted a noncompliance report to the Department stating that three (3) plasma arc cutters were operated at the facility without a permit. Specifically, according to a permit modification application submitted by the Respondent on or about May 4, 2016, PAC-1 – Plasma Arc Cutter, PAC-2 – Plasma Arc Cutter and PAC-3 – Plasma Arc Cutter were installed and operated at the facility. Emissions from these sources were not authorized until they were included as EQT0009, EQT0010 and EQT0011, respectively, in Minor Source Air General Permit No. 2140-00122-02 issued on June 14, 2016. The report also stated that the operation of these three (3) sources resulted in 4.33 tons per year of particulate matter ten (10) microns or less in size (PM10) and 2.78 tons per year of nitrogen oxides (NOx) on average for each year operated without a permit. The operation of each plasma arc cutter without authorization is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- G. On or about May 5, 2017, the Respondent submitted a noncompliance report to the Department stating that three (3) plasma arc cutters were installed at the facility without a permit. Specifically, PAC-1 – Plasma Arc Cutter, PAC-2 – Plasma Arc Cutter, and PAC-3 – Plasma Arc Cutter were installed at the facility prior to their inclusion in the permit modification application submitted by the Respondent on or about May 4, 2016. The failure to submit a permit application prior to the installation of each plasma arc cutter is a violation of LAC 33:III.501.C.1 and La. R.S. 30:2057(A)(2).
- H. On or about May 5, 2017, the Respondent submitted a noncompliance report to the Department stating that initiation of an emissions reduction project occurred at the facility without prior notification. Specifically, the Respondent reported the construction of a duct to connect the plasma arc cutters to a dust collection system



## KLOECKNER METAL CORPORATION

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prior to a permit modification application being submitted. The Respondent submitted a permit modification application to the Department on or about May 4, 2016, and the dust collection system was included with the issuance of Minor Source Air General Permit No. 2140-00122-02 on June 14, 2016. This notification failure is a violation of LAC 33:III.511.A and La. R.S. 30:2057(A)(2).

- I. The Respondent failed to determine if solid wastes generated at its facility were hazardous wastes, in violation of LAC 33:V.1103. Specifically, according to a letter dated May 5, 2017, the Respondent notified the Department that the facility has been using a toluene-based solvent (hazardous waste code F005) as a thinner for the primer base paint and to clean paint guns and lines at the facility. From October 2011 to March 2016, a toluene-based solvent was used and treated at the facility, but was not being managed as a hazardous waste. However, the May 5, 2017 correspondence to the Department indicated that the Respondent has started handling the spent solvent as a hazardous waste.
- J. The Respondent treated regulated hazardous waste without a permit or other authorization, in violation of LAC 33:V.303.B. Specifically, according to a letter dated May 5, 2017, the Respondent notified the Department that the facility had been treating hazardous waste without a permit. From October 2011 to March 2016, the Respondent had been using a toluene-based solvent (hazardous waste code F005) as a thinner for primer base paint and to clean paint guns and lines at the facility. The Respondent had been utilizing a paint evaporation room to dry fifty-five (55) gallon drums of spray paint booth waste. According to a response from the Respondent, in March 2016, the Respondent stopped using the evaporation room to evaporate solvent and paint residuals from the paint gun cleaning process. The Respondent switched from the toluene-based solvent (hazardous waste code F005) to an ethylbenzene and xylene based solvent (hazardous waste code F003). Additionally, the Respondent started handling the spent solvent from spray gun cleaning as a hazardous waste. The Respondent disposed of forty (40) drums of paint gun cleaning residuals and one-hundred-seventy-eight (178) drums of dry paint as hazardous waste.
- K. The Respondent failed to apply to the administrative authority for an active EPA identification number within fourteen (14) days after generating any hazardous waste, in violation of LAC 33:V.1105.A. Specifically, according to a letter dated May 5, 2017, the Respondent notified the Department that the facility had been generating hazardous waste in the form of toluene-based solvent (hazardous waste code F005). A file review conducted on May 31, 2017, revealed that the Respondent submitted an HW-1 Notification Form to the Department on or about March 29, 2016.

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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Prior to the issuance of any additional appropriate enforcement action, 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 Adrienne Landry at (225) 219-3805 or [Adrienne.Landry@la.gov](mailto:Adrienne.Landry@la.gov) within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

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.

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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **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 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 "**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.

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.

Sincerely,



Lourdes Iturralde  
Assistant Secretary  
Office of Environmental Compliance

LI/ARL/CGC  
Alt ID No. LAR000089995

c: Kloeckner Metals Corporation

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4501 N. Miro Street  
New Orleans, LA 70117

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)



Enforcement Tracking No.	MM-PP-17-00436	Contact Name	Adrienne Landry
Agency Interest (AI) No.	32513	Contact Phone No.	(225) 219-3805
Alternate ID No.	LAR000089995		
Respondent:	<b>KLOECKNER METALS CORPORATION</b>	Facility Name:	Kloeckner Metals Corporation – New Orleans Facility
	c/o C T Corporation System	Physical Location:	4501 N. Miro Street
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	New Orleans, LA 70117
	Baton Rouge, LA 70816	Parish:	Orleans

**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:I.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY (MM-PP-17-00436)**, 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 **NOTICE OF POTENTIAL PENALTY (MM-PP-17-00436)**, 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.

- Monetary component = \$ \_\_\_\_\_
- Beneficial Environmental Project (BEP) component (optional)= \$ \_\_\_\_\_
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-** the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY (MM-PP-17-00436)** 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: Adrienne Landry

# 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	
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	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.

