

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ACCURATE N.D.E. & INSPECTION, L.L.C.

AI # 38425

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

* **Settlement Tracking No.**
* **SA-RE-10-0052**
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* **Enforcement Tracking No.**
* **RE-P-09-0015**
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SETTLEMENT

The following Settlement is hereby agreed to between Accurate N.D.E. & Inspection, L.L.C. (“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 limited liability company that owns and/or operates an industrial radiography facility located in Broussard, Lafayette Parish, Louisiana (“the Facility”).

II

On September 22, 2009, the Department issued to Respondent a Penalty Assessment, Enforcement No. RE-P-09-0015, in the amount of \$57,674.37, which was based upon the following findings of fact:

The Respondent owns and/or operates an industrial radiography facility located at 209 Industrial Trace in Broussard, Lafayette Parish, Louisiana. The Respondent currently operates under Radioactive Material License LA-10207-L01 issued by the Department on February 19, 2009.

On or about March 25, 2008, and May 9, 2008, inspections were performed at the Respondent's facility to determine the degree of compliance with the Act and the Radiation Protection Regulations.

The following violations were noted during the course of the inspection(s):

- A. The Respondent allowed an employee's annual exposure to far exceed the company's stated ALARA limits and procedures of 4200 millirem without written approval by the Radiation Safety Officer, in violation of LAC 33:XV.320.A.2 and Operating and Emergency Procedures, section 4.1 and 4.2.
- B. The Respondent failed to control the occupational dose to individual adults to an annual total effective dose equivalent of 5000 millirem, in violation of LAC 33:XV.410.A.1.a.
- C. The Respondent failed to submit a written report to the Office of Environmental Compliance within 30 days after learning the occupational dose limit for an adult was exceeded, in violation of LAC 33:XV.487.A.
- D. The Respondent failed to properly maintain the records of calibration for inspection by the Department, in violation of LAC 33:XV.543.C. This violation was adequately addressed on or about March 26, 2008.
- E. The Respondent failed to properly maintain the records of depleted uranium leak tests for inspection by the Department, in violation of LAC 33:XV.544.F.
- F. The Respondent failed to ensure the utilization log contained the required information, in violation of LAC 33:XV.546.A. This violation was adequately addressed on or about March 27, 2008.
- G. The Respondent failed to ensure the refresher safety training records contained all the required information, in violation of LAC 33:XV.575.C.2. This violation was adequately addressed on or about March 26, 2008.
- H. The Respondent failed to conduct a program of internal audits, not to exceed every six months, in violation of LAC

33:XV.575.D. This violation was also cited in the Notice of Deficiency issued April 12, 2007.

- I. The Respondent failed to properly maintain records of positive dosimeter response for inspection by the Department, in violation of LAC 33:XV.577.B. This violation was adequately addressed on or about March 26, 2008.
- J. The Respondent failed to ensure each personnel dosimeter is assigned to and worn by only one individual, in violation of LAC 33:XV.577.C.
- K. The Respondent failed to properly maintain records of alarm ratemeter calibrations, in violation of LAC 33:XV.577.H.4. This violation was adequately addressed on or about March 26, 2008.

The following violations were noted during the file review and/or inspection conducted on or about May 9, 2008.

- A. The Respondent failed to maintain records of doses received by all individuals for whom monitoring was required pursuant to LAC 33:XV.431, in violation of LAC 33:XV.476.A.
- B. The Respondent failed to replace personnel dosimeters at periods not to exceed one month and process them as soon as possible, in violation of LAC 33:XV.577.C.
- C. The Respondent failed to ensure pocket dosimeters were read and exposures recorded at least daily with use at the beginning and end of each shift, in violation of LAC 33:XV.577.D.
- D. The Respondent failed to maintain storage area survey records for inspection by the Department, in violation of LAC 33:XV.587.E.

On July 21, 2008, a Notice of Potential Penalty (NOPP), Enforcement Tracking No. RE-PP-08-0010, was issued to the Respondent.

III

In response to the Penalty Assessment, Respondent made a timely request for a hearing.

IV

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V

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 THOUSAND AND NO/100 DOLLARS (\$30,000.00), of which One Thousand Seven Hundred Fourteen and 37/100 Dollars (\$1,714.37) 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).

VI

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment 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.

VII

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.

VIII

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 LSA- R. S. 30:2025(E) of the Act.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Lafayette 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.

X

The total amount due of \$30,000.00 is to be paid in six (6) consecutive monthly payments of \$5,000.00 each. The first payment of \$5,000.00 is to be made within ten (10) days from notice of the Secretary's signature. The remaining 5 payments of \$5,000.00 each are to be paid by the 10th of the month following the previous month's payment until paid in full. 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).

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.

ACCURATE N.D.E. & INSPECTION,
L.L.C.

BY: [Signature]
(Signature)

Charles Brignac
(Print)

TITLE: Manager

THUS DONE AND SIGNED in duplicate original before me this 23rd day of March, 20 11, at Lafayette, LA.

[Signature]
NOTARY PUBLIC (ID # 4488)

James L. Daniels
(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 13th day of June, 20 11, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 20590)
Bar Roll

Dulana King
(stamped or printed)

Preliminary Approval: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary