

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

ARC ABATEMENT I, LTD.

AI # 37160, 189730, 1569, 9007, 81367, 155858,
200758, 201505

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

* Settlement Tracking No.
* SA-AE-24-0036
*
* Enforcement Tracking Nos.
* AE-PP-20-00805
* AE-PP-21-00335
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Arc Abatement I, Ltd. (“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 partnership that owns and/or operates at facilities located in Caddo Parish, Lincoln Parish, Rapides Parish, Orleans Parish, and Washington Parish, Louisiana (“the Facilities”).

II

On December 21, 2020, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-20-00805 (Exhibit 1).

On May 27, 2021, the Department issued to Respondent a Notice of Potential Penalty, Enforcement Tracking No. AE-PP-21-00335 (Exhibit 2).

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 TWELVE THOUSAND AND NO/100 DOLLARS (\$12,000.00), of which Three Thousand Nine Hundred Thirty-Seven and 53/100 Dollars (\$3,937.53) represents the Department's enforcement costs, in settlement of the claims set forth in this Settlement 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), permit record(s), the Notices of Potential Penalty and this Settlement Agreement 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 Settlement 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 Settlement Agreement in any action by the Department to enforce this Settlement Agreement.

VII

This Settlement Agreement 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 Agreement, 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 Caddo Parish, Lincoln Parish, Rapides Parish, Orleans Parish, and Washington Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this Settlement Agreement 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 Agreement 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 thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Settlement Agreement is voidable at the option of the Department. The Respondent shall provide its tax identification number when submitting payment. 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 Agreement.

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.

ARC ABATEMENT I, LTD.

BY: _____
(Signature)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)


LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Aurelia S. Giacometto, Secretary

BY: _____
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved: 

Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



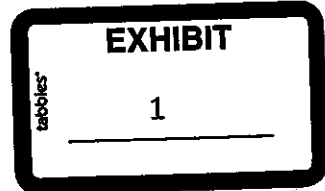
CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

December 21, 2020

CERTIFIED MAIL (7014 0510 0001 7431 7861)
RETURN RECEIPT REQUESTED

ARC ABATEMENT I, LTD.
c/o Registered Agent Solutions, Inc.
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, Louisiana 70816



**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-20-00805
AGENCY INTEREST NOS. 37160 & 189730**

Dear Sir or Madam:

Inspections of the sites listed in the table below were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. **ARC ABATEMENT I, LTD. (RESPONDENT)**, (Agency Interest No. 174512), was contracted to conduct renovation activities at the sites listed below. The Respondent owns and/or operates a company that is recognized by the Louisiana State Licensing Board for Contractors to perform asbestos abatement activities.

Agency Interest Number (AI)	Site Name	Site Address	Parish	Date of Inspection(s)
37160	Fairfield Medical Plaza	2015 Fairfield Avenue, Shreveport, LA	Caddo	12/30/15
189730	University Health Shreveport	1541 Kings Highway, Shreveport, LA	Caddo	2/8/16

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 inspection(s) and file review on October 15, 2020:

Fairfield Medical Plaza (AI No. 37610)

- A. The Respondent failed to notify the Department's regional office by fax or email within twenty-four (24) hours after the renovation activity had ended and the work

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area was cleaned. Specifically, an emergency Form AAC-2 was postmarked December 23, 2015, and received by the Department on December 28, 2015, for an emergency renovation activity which was scheduled to begin and end on December 23, 2015, at Fairfield Medical Plaza (AI No. 37160). At the time of the Department's inspection on or about December 30, 2015, the Department's inspector noted that the asbestos renovation was completed. However, a completion notice was not received by the Department's regional office. This is a violation of LAC 33.III.5151.F.3.m and La. R.S. 30:2057(A)(2).

University Health Shreveport Hospital (AI No 189730)

- B. The Respondent failed to submit a revised Form AAC-2 when the quantity of asbestos affected changed by more than plus or minus twenty (20) percent. Specifically, the emergency Form AAC-2 postmarked February 8, 2016 and received by the Department on February 11, 2016, stated an emergency renovation activity at University Health Shreveport Hospital (AI No. 189730) was scheduled to begin and end on February 8, 2016. According to the aforementioned Form AAC-2, 100 cubic yards of regulated asbestos containing material (RACM) was to be abated, whereas the actual amount of RACM abated was one (1) cubic yard according to Asbestos Disposal Notification Form (ADV) 36169 dated March 14, 2016. The Department has no record of receiving a revised Form AAC-2. This is a violation of LAC 33.III.5151.F.2.b and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to notify the Department's regional office by fax or email within twenty-four (24) hours after the renovation activity had ended and the work area was cleaned. Specifically, an emergency Form AAC-2 was postmarked February 8, 2016, and received by the Department on February 11, 2016, for an emergency renovation activity which was scheduled to begin and end on February 8, 2016 at University Health Shreveport Hospital (AI No. 189730). At the time of the Department's inspection on or about February 8, 2016, the Department's inspector noted that the asbestos renovation was completed and air clearance was received on February 10, 2016. A completion notice was not received by the Department's regional office. This is a violation of LAC 33.III.5151.F.3.m and La. R.S. 30:2057(A)(2).
- D. The Respondent failed to label containers or wrapped materials containing asbestos-containing waste material to be transported off the facility site with the name of the waste generator and the location at which the waste was generated. Specifically, according to Form AAC-2 dated February 8, 2016, and received by the Department on February 11, 2016, an emergency renovation activity was conducted at University Health Shreveport Hospital (AI No. 189730) on February 8, 2016. During the inspection conducted by the Department on or about February 8, 2016, the asbestos-containing waste material generated from the abatement was observed to be double bagged; however, there were no generator labels on the bags. This is a violation of LAC 33.III.5151.J.1.a.v and La. R.S. 30:2057(A)(2).

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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.

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 Alissa Cockerham at (225) 219-3785 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.Chapter 7. 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

LJ/ARC/arc
Alt ID No. N/A

Arc Abatement I, Ltd.

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c: ARC Abatement I. Ltd.

c/o Ron Daniel

225 S. 12th Street

Waco, Texas 76701

**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.	AE-PP-20-00805	Contact Name	Allssa Cockerham
Agency Interest (AI) Nos.	37160 & 189730	Contact Phone No.	(225) 219-3785
Alternate ID No.	N/A		
Respondent:	ARC Abatement I, Ltd.	Facility Names:	Fairfield Medical Plaza & University Health Shreveport
	c/o Registered Agent Solutions, Inc.	Physical Locations:	2015 Fairfield Avenue & 1541 Kings Highway
	Agent for Service of Process	City, State, Zip:	Shreveport, Louisiana 71103 & 71104
	3867 Plaza Tower Drive Baton Rouge, LA 70816	Parish:	Caddo

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 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-20-00805), 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 (AE-PP-20-00805), 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 (AE-PP-20-00805) 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: Allssa Cockerham

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 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.



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	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:1 Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:1 Chapter 25</u> <u>FAQs</u>
Judicial Interest.....	<u>provided by the Louisiana State Bar Association</u>



JOHN BEL EDWARDS
GOVERNOR

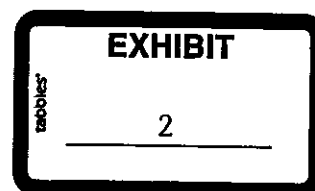


CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

May 27, 2021

CERTIFIED MAIL (7012 2210 0001 1915 5205)
RETURN RECEIPT REQUESTED



ARC ABATEMENT I, LTD.
c/o Registered Agent Solutions, Inc.
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, Louisiana 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-PP-21-00335
AGENCY INTEREST NOS. 1569, 9007, 81367, 155858, 200758, & 201505**

Dear Sir or Madam:

Inspections and/or file reviews of asbestos abatements conducted at the facilities listed in the table below were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. **ARC ABATEMENT I, LTD. (RESPONDENT)**, (Agency Interest No. 174512), conducted the renovation activities at the facilities. The Respondent owns and/or operates a company that is recognized by the Louisiana State Licensing Board for Contractors to perform asbestos abatement activities.

Agency Interest Number (AI)	Facility Name	Facility Address	Parish	Date of Inspection(s) or File Review
1569	Grambling State University Woodson Hall	403 Main Street, Grambling, LA	Lincoln	6/21/16
9007	Overton Brooks VA Medical Center	510 E. Stoner Avenue, Shreveport, LA	Caddo	7/19/16
81367	First Baptist Church	901 Main Street, Pineville, LA	Rapides	4/15/21 (file review)
155858	Louisiana State University (LSU) Health Sciences Center	1501 Kings Highway, Shreveport, LA	Caddo	6/6/16
200758	Former Residence	3830 Elysian Fields, New Orleans, LA	Orleans	4/15/21 (file review)
201505	Former YWCA Building	409 Plaza Street, Bogalusa, LA	Washington	4/15/21 (file review)

Arc Abatement I, Ltd.
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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 inspection(s) and file reviews on April 15, 2021:

Grambling University – Woodson Hall (AI No. 1569)

- A. The Respondent failed to submit an emergency notification by phone, fax, email, or voicemail to the Department's regional office at least four (4) hours after learning of the incident that required emergency renovation operations. Specifically, the Respondent submitted an emergency notification of demolition and renovation and asbestos-contaminated debris activity form, AAC-2 (AAC-2) on May 23, 2016, for an emergency renovation activity which began on May 10, 2016 at Grambling State University – Woodson Hall. According to the AAC-2, the Respondent removed approximately thirty (30) cubic yards of RACM from the school. However, notification was not made to the regional office prior to beginning the renovation activity. This is a violation of LAC 33:III.5151.F.2.e and La. R.S. 30:2057(A)(2).
- B. The Respondent failed to submit an emergency AAC-2, and fees within five (5) days after the emergency notification is made. Specifically, the Respondent submitted an emergency AAC-2 on May 23, 2016, for an emergency renovation activity which began on May 10, 2016, at Grambling State University – Woodson Hall. The failure to submit the original AAC-2 and fees within five (5) days of the emergency notification is a violation of LAC 33:III.5151.F.2.e.ii and La. R.S. 30: 2057(A)(2).
- C. The Respondent failed to notify the Department's regional office by fax or email within twenty-four (24) hours after the renovation activity had ended and the work area was cleaned. Specifically, the Respondent submitted an emergency AAC-2 on May 23, 2016, for an emergency renovation activity which was scheduled to begin on May 10, 2016, and end on May 15, 2016, at Grambling State University – Woodson Hall. At the time of the Department's inspection on or about June 21, 2016, the asbestos renovation was complete. However, a completion notice was not received by the Department's regional office. This is a violation of LAC 33:III.5151.F.3.m and La. R.S. 30: 2057(A)(2).

Overton Brooks VA Medical Center (AI No. 9007)

- D. The Respondent failed to notify the Department by submitting an AAC-2 prior to beginning an asbestos renovation activity. Specifically, a facility representative stated during the inspection conducted on or about July 19, 2016, that the Respondent was contracted to abate approximately 151 square feet of asbestos-containing floor tile and asbestos-containing mastic in room 5W55 at Overton Brooks VA Medical Center from June 10, 2016 through June 12, 2016. At the time of the inspection, the abatement was complete. Documentation provided by Altec Environmental Consulting, LLC, who conducted air monitoring during the abatement, revealed the abatement was conducted with hand scrapers and rags. According to information provided to the Department's inspector, the Respondent removed greater than sixty-four (64) square

Arc Abatement I, Ltd.
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feet of Category I/Category II ACM in a manner to render it RACM. However, the Department did not receive an AAC-2 for the asbestos renovation activity. This is a violation of LAC 33:III.5151.F.2, LAC 33:III.5151.I.1, and La. R.S. 30:2057(A)(2).

- E. The Respondent allowed assumed asbestos containing waste material (ACWM) to be transported offsite without an asbestos disposal verification form (ADVF). Specifically, the Respondent abated approximately 151 square feet of asbestos-containing floor tile and mastic at the Overton Brooks VA Hospital between June 10, 2016 and June 12, 2016. According to a phone interview with a representative of the Respondent on August 18, 2016, the waste was no longer at Overton Brooks VA Medical Center, but the representative did not have knowledge regarding the identity of the waste transporter or where the waste was disposed of. A file review conducted on or about April 15, 2021 revealed an ADVF had not been issued by the Department as an AAC-2 was never submitted for this project. The failure to use an ADVF for all ACWM transported off-site is a violation of LAC 33:III.5151.J.4.a and La. R.S. 30:2057(A)(2).
- F. The Respondent failed to notify the Department's regional office by fax or email within twenty-four (24) hours after the renovation activity had ended and the work area was cleaned. Specifically, the Respondent abated approximately 151 square feet of asbestos-containing floor tile and mastic which was rendered RACM between June 10, 2016 and June 12, 2016 at the Overton Brooks VA Medical Center. At the time of the Department's inspection on or about July 19, 2016, the asbestos renovation was complete. However, a completion notice was not received by the Department's regional office. This is a violation of LAC 33:III.5151.F.3.m and La. R.S. 30:2057(A)(2).

First Baptist Church (AI No. 81367)

- G. The Respondent failed to submit an emergency AAC-2, and fees within five (5) days after the emergency notification is made. Specifically, an emergency AAC-2 was postmarked May 23, 2016, and received by the Department on May 26, 2016 for an emergency asbestos renovation activity which began on April 27, 2016 at First Baptist Church. According to the AAC-2, the Respondent abated approximately 108 square feet of RACM and vinyl asbestos tile (VAT). Email notification was made to the Department prior to starting the job on April 27, 2016. The failure to timely submit the AAC-2 and fees is a violation of LAC 33:III.5151.F.2.e.ii and La. R.S. 30:2057(A)(2).

LSU Health Sciences Center (AI No. 155858)

- H. The Respondent failed to submit fees associated with the submittal of an emergency AAC-2, within five (5) days after the emergency notification was made. Specifically, the Office of Environmental Services received an emergency AAC-2 by email on June 3, 2016, for an emergency renovation activity at the LSU Health Sciences Center. According to the AAC-2, the Respondent was scheduled to remove approximately

Arc Abatement I, Ltd.

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three (3) cubic yards of RACM at the facility on June 3 - 4, 2016. However, the fees were not received by the Department. This is a violation of LAC 33:III.5151.F.2.a, LAC 33:III.5151.F.2.e.ii, and La. R.S. 30:2057(A)(2).

- I. The Respondent conducted an unauthorized asbestos renovation activity due to inaccurate information on the AAC-2. Specifically, the emergency AAC-2 emailed to the Department on June 3, 2016, for an emergency renovation activity at LSU Health Sciences Center did not include a solid waste transporter identification number in Section XI and did not include the telephone number, mailing address, and physical location of the recognized asbestos landfill (RAL) where the ACWM would be deposited in Section XIII. Therefore, an ADVF was not issued for the above renovation activity. At the time of the Department's inspection on or about June 6, 2016, approximately 300 square feet of VAT and mastic had been abated at the sixth floor nurse's station. The failure to submit a complete and accurate AAC-2 and obtain authorization from the Department to conduct the abatement is a violation of LAC 33:III.5151.F.2.a.ii, LAC 33:III.5151.F.2.d.xii, LAC 33:III.5151.F.2.xvii, and La. R.S. 30:2057(A)(2).
- J. The Respondent failed to submit an emergency notification to the Department's regional office within four (4) hours after learning of the incident that required emergency renovation operations. Specifically, an emergency AAC-2 was received by the Office of Environmental Services via email on June 3, 2016, for an emergency renovation activity that occurred on June 3, 2016 at LSU Health Sciences Center. However, notification was not made to the Department's regional office at least four (4) hours after learning of the incident that required emergency renovation operations. This is a violation of LAC 33:III.5151.F.2.e and La. R.S. 30:2057(A)(2).
- K. The Respondent failed to notify the Department's regional office by fax or email within twenty-four (24) hours after the renovation activity had ended and the work area was cleaned. Specifically, an emergency AAC-2 was received by the Office of Environmental Services via email on June 3, 2016, for an emergency renovation activity at LSU Health Sciences Center, which was scheduled to begin on June 3, 2016 and end on June 4, 2016. At the time of the Department's inspection on June 6, 2016, the abatement was complete. A completion notice was not received by the Department's regional office. This is a violation of LAC 33:III.5151.F.3.m and La. R.S. 30:2057(A)(2).
- L. The Respondent failed to label containers or wrapped materials containing ACWM to be transported off the facility site with the name of the waste generator and the location at which the waste was generated. Specifically, according to an AAC-2 dated June 3, 2016, the Respondent conducted an emergency renovation activity at LSU Health Sciences Center, on June 3 & 4, 2016. The Respondent abated approximately 300 square feet of VAT and mastic which was estimated to result in approximately three (3) cubic yards of RACM. During the inspection conducted by the Department on or about June 6, 2016, the ACWM generated from the abatement was stored in a

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polyethylene bag. However, there were no visible generator labels on the bags. This is a violation of LAC 33:III.5151.J.1.a.v and La. R.S. 30:2057(A)(2).

- M. The Respondent failed to store all wrapped and contained ACWM in a labeled, secured area away from the public. Specifically, an emergency renovation activity was conducted at LSU Health Sciences Center, which was scheduled to begin on June 3, 2016. During the inspection conducted by the Department on or about June 6, 2016, the ACWM generated from the abatement was stored in polyethylene bags in the 6th floor elevator lobby area and members of the public were observed in the lobby area. The failure to secure ACWM from the public is a violation of LAC 33:III.5151.J.1.a.vi and La. R.S. 30:2057(A)(2).

Former Residence – 3830 Elysian Fields (AI No. 200758)

- N. The Respondent failed to submit an emergency AAC-2, and fees within five (5) days after the emergency notification was made. Specifically, the Respondent submitted an emergency AAC-2 on March 30, 2016 for the abatement of approximately four (4) cubic yards of RACM from a residential building prior to the demolition of the building. The Department subsequently determined the abatement occurred in a building that was operated as a commercial hair salon, which is a facility as defined in LAC 33:III.5151. Email notification was made to the Department prior to starting the job on March 4, 2016. The failure to submit the original AAC-2 and fees within five (5) days of the emergency notification is a violation of LAC 33:III.5151.F.2.e.ii and La. R.S. 30:2057(A)(2).

Former YWCA Building (AI No. 201505)

- O. The Respondent failed to submit an emergency AAC-2, and fees within five (5) days after the emergency notification was made. Specifically, the Respondent submitted an emergency AAC-2 on May 23, 2016, for the abatement of thermal system insulation (TSI) and VAT at a YMCA building prior to the building being demolished. The Department subsequently determined the abatement occurred in a building that was operated as a commercial hair salon, which is a facility as defined in LAC 33:III.5151. Email notification was made to the Department prior to starting the job on April 18, 2016. The failure to submit the original AAC-2 and fees within five (5) days of the emergency notification is a violation of LAC 33:III.5151.F.2.e.ii and La. R.S. 30:2057(A)(2).

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.

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

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like to have such a meeting, please contact Alissa Cockerham at (225) 219-3785 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.Chapter 7. 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/ARC/arc
Alt ID No. N/A

c: ARC Abatement I, Ltd.
c/o Ron Daniel
225 S. 12th Street
Waco, Texas 76701

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.	AE-PP-21-00335	Contact Name	Alissa Cockerham
Agency Interest (AI) Nos.	1569, 9007, 81367, 155858, 200758, & 201505	Contact Phone No.	(225) 219-3785
Alternate ID No.	N/A		
Respondent:	ARC Abatement I, Ltd.	Facility Name:	Multiple (see table)
	c/o Registered Agent Solutions, Inc. Agent for Service of Process	Physical Location:	Multiple (see table)
	3867 Plaza Tower Drive	City, State, Zip:	Multiple (see table)
	Baton Rouge, LA 70616	Parish:	Multiple (see table)

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 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-PP-21-00335), 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 (AE-PP-21-00335), 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 (AE-PP-21-00335) 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: Alissa Cockerham

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 33:1705 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 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.



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

