

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

COYS DIESEL SALES, SERVICE AND
PERFORMANCE LLC

AI # 192991

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

* Settlement Tracking No.
* SA-MM-22-0059
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* Enforcement Tracking No.
* MM-CN-20-00633
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SETTLEMENT

The following Settlement is hereby agreed to between Coys Diesel Sales, Service and Performance LLC (“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 a diesel automotive repair and sales garage located in Gonzales, Ascension Parish, Louisiana (“the Facility”).

II

On December 21, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-20-00633 (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 TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), of which One Thousand Eight Hundred Ninety-Eight and 04/100 Dollars (\$1,898.04) 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), permit record(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 Ascension 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

An initial payment of \$5,000.00 is due within ten (10) days from notice of the Secretary's signature. The remaining balance of \$20,000.00 shall be made over a period of twelve (12) consecutive months in the amount of \$1,700.00 per month due on the 15th of each month, with the last payment submitted for the amount of \$1,300.00. 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.

COYS DIESEL SALES, SERVICE AND PERFORMANCE LLC

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
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Celena J. Cage, 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:  _____
Celena J. Cage, Assistant Secretary

ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY**



Enforcement Tracking No.	MM-CN-20-00633	Certified Mail No.	7019 2970 0000 6037 2803
Agency Interest (AI) No.	192991	Contact Name	Richard Ober, Jr.
Alternate ID No.	LAG470385	Contact Phone No.	(225) 219-3135
Respondent:	Coys Diesel Sales, Service and Performance LLC	Facility Name:	Coys Diesel Sales, Service and Performance LLC
	c/o Coy Redmond	Physical Location:	40560 Babin Road
	Agent for Service of Process	City, State, Zip:	Gonzales, LA 70737
	37501 Trails End Street Prairieville, LA 70769	Parish:	Ascension

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

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. The Respondent owns and/or operates a diesel automotive repair and sales garage located at 40560 Babin Road, Gonzales, Ascension Parish, Louisiana. The Department issued Louisiana Pollutant Discharge Elimination System (LPDES) General Permit LAG470000 effective on September 1, 2014. The Respondent was granted authorization under LPDES General Permit LAG470000 effective on October 1, 2014, and specifically assigned permit number LAG470385. LPDES General Permit LAG470385 expired on August 31, 2019, but was administratively continued. LPDES General Permit LAG470000 was reissued with an effective date of November 20, 2019, and authorization under the reissued permit was granted to the Respondent effective on February 7, 2020. LPDES General Permit LAG470385 will expire on November 19, 2024. Under the terms and conditions of LPDES General Permit LAG470385, the Respondent is permitted to discharge maintenance and repair shop floor washwater and treated sanitary wastewater into Bayou Narcisse via local drainage, thence into Black Bayou, thence into New River, thence into Blind River, thence into Lake Maurepas, thence into Lake Pontchartrain in subsegment 040404, all waters of the state. The Respondent does not have a permit or other authority from the Department to dispose of solid waste at the facility.

An inspection of the Respondent's facility was conducted on May 13, 2019, based on a citizen's complaint. On or about July 14, 2019, a Notice of Deficiency (NOD) was issued to the Respondent for violations revealed at the time of the inspection. On or about August 5, 2019, the Department received a response to the NOD. The response did not provide information to demonstrate that corrective actions had been or would be taken to address and resolve all of the violations. As a result, a follow-up inspection of the facility was conducted on or about August 21, 2019, to determine if the violations had been addressed.

Date of Violation		Description of Violation
II.	Inspection(s) May 13, 2019 August 21, 2019 File Review October 1, 2020	The Respondent failed to comply with LPDES Permit LAG470385. Specifically, the Respondent failed to submit quarterly Discharge Monitoring Reports (DMRs) for Outfall 002 and semiannual DMRs for Outfall 005 from the effective date of the permit (October 1, 2014) until October 1, 2020. The failure to submit DMRs is a violation of LPDES Permit LAG470385 (Part I, Section C.7, pages 16-18 of 18 and Part III, Section A.2 prior to and after February 7, 2020), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.
III.	Inspection(s) May 13, 2019 August 21, 2019 File Review October 1, 2020	The Respondent failed to sample the effluent from Outfalls 002 and 005 as required by LPDES Permit LAG470385. Specifically, the inspection conducted on May 13, 2019, revealed that no effluent sampling had been conducted since the effective date of the permit. At the time of the inspection, the inspector questioned the representative of the Respondent as to whether sampling of discharges had ever been done. The representative stated that no sampling had been done. After the NOD was issued for the May 13, 2019 inspection, which contained this violation, the Respondent submitted a response which failed to provide the corrective action taken to address the violation. A follow-up inspection conducted on or about August 21, 2019, revealed no evidence that any steps had been taken to comply with the monitoring requirements of the LPDES permit. On or about October 13, 2020, the Department received a response to the August 21, 2019 inspection with attached laboratory analytical results to demonstrate that the first sampling collection occurred on March 26, 2020. The failure to sample the effluent is a violation of LPDES Permit LAG470385 (Part I, Section B, Outfalls 002 and 005, pages 9 and 13 of 18, respectively, and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.
IV.	Inspection(s) May 13, 2019	The Respondent failed to properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used to achieve compliance with the conditions of the LPDES permit. Specifically, the inspection on May 13, 2019, revealed that the oil/water separator was full of water which caused waste oil to overflow from the separator and onto the surrounding soil. According to records provided by the Respondent, cleanup of the soil was contracted on or about August 1, 2019. The inspection on August 21, 2019, revealed that maintenance had been performed on the oil/water separator, and no free oil was seen at the treatment system. The inspection also revealed that the oily soil had been cleaned. The sludge was removed and was being held pending analysis. The sludge was to be disposed of once the analytical data was received. According to the Waste Manifest provided by the Respondent, the oily sludge was transported from the facility on or about September 13, 2019. The failure to properly operate and maintain all facilities and systems of treatment and control is a violation of LPDES Permit LAG470385 (Part III, Sections A.2 and B.3.a), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.E.



V.	Inspection(s) August 21, 2019	The Respondent failed to comply with LPDES Permit LAG470385 by keeping a copy of the permit at the facility. Specifically, the inspection revealed that there was not a copy of the permit onsite. The failure to keep a copy of the permit at the facility is a violation of LPDES Permit LAG470385 (Part I, Section A, page 3 of 18 and Part III Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.
VI.	File Review October 1, 2020	The Respondent failed to comply with LPDES Permit LAG470385. Specifically, the Respondent failed to prepare, implement, and maintain a Pollution Prevention Plan. An email from a representative of the Respondent on October 1, 2020, indicated that the facility had no record of the plan. The failure to prepare, implement, and maintain a Pollution Prevention Plan is a violation of LPDES Permit LAG470385 (Part II, Section G and Part III Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.
VII.	Inspection(s) May 13, 2019	The Respondent caused and/or allowed the disposal of regulated solid waste without a permit and/or other authority from the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, at the time of the May 13, 2019 inspection, staining was observed on the soil immediately above an in-ground oil/water separator. The Respondent subcontracted Allwaste Industrial Services, LLC (AI No. 223609) to hydro-excavate and vacuum the contaminated soils located around the oil/water separator. A follow-up inspection conducted on or about August 21, 2019, revealed the oily soil was cleaned, and the Respondent was storing the excavated contaminated soil in a twenty-five (25) yard storage container pending toxicity characteristic leaching procedure (TCLP) analysis. The Respondent subsequently submitted Non-hazardous Waste Manifest No. 08173 dated September 13, 2019, to document that the contaminated soil was properly disposed of at Clean Harbors White Castle LLC.

VIII.	File Review October 1, 2020	<p>The Respondent failed to comply with LPDES Permit LAG470385. Specifically, a review of laboratory analytical results attached to a response to the August 21, 2019, inspection revealed noncompliance with permit effluent limitations as follows:</p> <table border="1"> <thead> <tr> <th>Sample Collection Date</th> <th>Outfall</th> <th>Parameter</th> <th>Limit</th> <th>DMR Value</th> <th>Units</th> </tr> </thead> <tbody> <tr> <td>3/26/2020</td> <td>005</td> <td>Fecal Coliform (daily maximum)</td> <td>400</td> <td>TNTC*</td> <td>number/100 mL</td> </tr> <tr> <td>3/26/2020</td> <td>005</td> <td>Fecal Coliform (daily maximum)</td> <td>200</td> <td>TNTC*</td> <td>number/100 mL</td> </tr> <tr> <td>3/26/2020</td> <td>005</td> <td>Total Suspended Solids (daily maximum)</td> <td>45</td> <td>68.0</td> <td>mg/L</td> </tr> <tr> <td>3/26/2020</td> <td>005</td> <td>Total Suspended Solids (daily maximum)</td> <td>30</td> <td>68.0</td> <td>mg/L</td> </tr> <tr> <td>3/26/2020</td> <td>002</td> <td>Oil & Grease (daily maximum)</td> <td>15</td> <td>332</td> <td>mg/L</td> </tr> <tr> <td>3/26/2020</td> <td>002</td> <td>Total Suspended Solids (daily maximum)</td> <td>45</td> <td>1,000</td> <td>mg/L</td> </tr> <tr> <td>3/26/2020</td> <td>002</td> <td>Chemical Oxygen Demand (daily maximum)</td> <td>300</td> <td>27,900</td> <td>mg/L</td> </tr> <tr> <td>6/23/2020</td> <td>002</td> <td>Oil & Grease (daily maximum)</td> <td>15</td> <td>33.0</td> <td>mg/L</td> </tr> <tr> <td>6/23/2020</td> <td>002</td> <td>Chemical Oxygen Demand (daily maximum)</td> <td>300</td> <td>900</td> <td>mg/L</td> </tr> <tr> <td>9/25/2020</td> <td>005</td> <td>BOD₅ (daily maximum)</td> <td>45</td> <td>103</td> <td>mg/L</td> </tr> <tr> <td>9/25/2020</td> <td>005</td> <td>BOD₅ (monthly average)</td> <td>30</td> <td>103</td> <td>mg/L</td> </tr> <tr> <td>9/25/2020</td> <td>002</td> <td>Oil & Grease (daily maximum)</td> <td>15</td> <td>136</td> <td>mg/L</td> </tr> <tr> <td>9/25/2020</td> <td>002</td> <td>Chemical Oxygen Demand (daily maximum)</td> <td>300</td> <td>6,400</td> <td>mg/L</td> </tr> <tr> <td>9/25/2020</td> <td>002</td> <td>pH (minimum)</td> <td>6</td> <td>5.58</td> <td>Standard Units</td> </tr> </tbody> </table> <p>*TNTC – Too Numerous to Count</p> <p>Each exceedance of a permit effluent limitation is a violation of LPDES Permit LAG470385 (Part I, Section B, Outfall 002, page 9 of 18; Part I, Section B, Outfall 005, page 13 of 18 and Part III, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.</p>	Sample Collection Date	Outfall	Parameter	Limit	DMR Value	Units	3/26/2020	005	Fecal Coliform (daily maximum)	400	TNTC*	number/100 mL	3/26/2020	005	Fecal Coliform (daily maximum)	200	TNTC*	number/100 mL	3/26/2020	005	Total Suspended Solids (daily maximum)	45	68.0	mg/L	3/26/2020	005	Total Suspended Solids (daily maximum)	30	68.0	mg/L	3/26/2020	002	Oil & Grease (daily maximum)	15	332	mg/L	3/26/2020	002	Total Suspended Solids (daily maximum)	45	1,000	mg/L	3/26/2020	002	Chemical Oxygen Demand (daily maximum)	300	27,900	mg/L	6/23/2020	002	Oil & Grease (daily maximum)	15	33.0	mg/L	6/23/2020	002	Chemical Oxygen Demand (daily maximum)	300	900	mg/L	9/25/2020	005	BOD ₅ (daily maximum)	45	103	mg/L	9/25/2020	005	BOD ₅ (monthly average)	30	103	mg/L	9/25/2020	002	Oil & Grease (daily maximum)	15	136	mg/L	9/25/2020	002	Chemical Oxygen Demand (daily maximum)	300	6,400	mg/L	9/25/2020	002	pH (minimum)	6	5.58	Standard Units
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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 Water 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 , properly completed DMRs for the monitoring periods of the last three (3) years mentioned in Paragraph II of the "Findings of Fact" portion of this Order. If you are submitting copies of DMRs, please be advised that each copy of the DMR shall be signed and certified. If no sampling or monitoring was conducted during a monitoring period, the Respondent should indicate this in the space provided for "Comment and Explanation of Any Violations."
IV.	To submit a completed NetDMR Subscriber Agreement to the Department for approval to submit DMRs electronically using NetDMR, within thirty (30) days after receipt of this COMPLIANCE ORDER . The Subscriber Agreement shall be signed and dated with an original signature and submitted to the Enforcement Division. (NetDMR is accessed through: www.epa.gov/netdmr . For

- V. To submit DMRs and associated reports electronically using NetDMR beginning with the first monitoring period after approval of the NetDMR Subscriber Agreement unless otherwise notified in writing by the Department.
- VI. To prepare and implement, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the Pollution Prevention Plan (PPP) as outlined in the (Part II, Section G) and submit a copy to the Enforcement Division within forty-five (45) days after receipt 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 left-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's (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 Richard Ober, Jr. at (225) 219-3135 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 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 violation(s) 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 that 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. This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Water Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Richard Ober, Jr.	Hearing Requests: 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. MM-CN-20-00633 Agency Interest No. 192991
Water Permits Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Water Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

HOW TO REQUEST CLOSURE OF THIS CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

- To appeal the **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY**.

Before requesting closure of the **COMPLIANCE ORDER** portion, the Respondent must demonstrate compliance with the **ORDER** portion of this **COMPLIANCE ORDER** by completing the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form and returning it to the address specified.

- o Before requesting closure of the **COMPLIANCE ORDER** portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

- 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.

- o The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
- o 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.
- o 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.
- o **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.
- o Before requesting closure of the **NOTICE OF POTENTIAL PENALTY** portion, please contact the Financial Services Division at 225-219-3865 or email them at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Date: 12-21-2020

cc: Mr. Coy Redmond
Coy's Diesel Sales, Service & Performance LLC
13397 Airline Highway
Gonzales, LA 70737

Mr. Jamie Redmond, Manager
Coy's Diesel Sales, Service & Performance LLC
37501 Trails End Street
Prairieville, LA 70769

ecc: LDH/Office of Public Health

Attachment(s)

- Request to Close
- Settlement Brochure



BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE

Enforcement Tracking No.	MM-CN-20-00633	Contact Name	Richard Ober, Jr.
Agency Interest (AI) No.	192991	Contact Phone No.	(225) 219-3135
Alternate ID No.	LAG470385		
Respondent:	Coys Diesel Sales, Service and Performance LLC	Facility Name:	Coy's Diesel Sales, Service and Performance LLC
	c/o Coy Redmond	Physical Location:	40560 Babin Road
	Agent for Service of Process		
	37501 Trails End Street	City, State, Zip:	Gonzales, LA 70737
	Prairieville, LA 70769	Parish:	Ascension

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 Paragraphs III and IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph VI of the "Order" portion of the COMPLIANCE ORDER.		
Submitted DMRs and associated reports electronically using NetDMR in accordance with Paragraph V 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.Subpart 1.Chapter 7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (MM-CN-20-00633), 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 NOTICE OF POTENTIAL PENALTY (MM-CN-20-00633), 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 NOTICE OF POTENTIAL PENALTY (MM-CN-20-00633) 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
 Post Office Box 4312
 Baton Rouge, LA 70821
 Attn: Richard Ober, Jr.

If you have questions or need more information, you may contact Richard Ober, Jr. at (225) 219-3135 or richard.ober@la.gov.

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.



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 <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>

