

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

2528 TUNE, INC.

AI # 175442

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

* **Settlement Tracking No.**
* **SA-HE-25-0024**
*
* **Enforcement Tracking No.**
* **HE-CN-21-00405**
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SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between 2528 Tune, Inc. (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates a motor vehicle service and repair shop located in Baton Rouge, East Baton Rouge, Louisiana (“the Facility”).

II

On October 28, 2021, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-21-00405 (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 THREE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$3,500.00), of which One Thousand Nine Hundred Sixty-Seven and 88/100 Dollars (\$1,967.88) 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), the Consolidated Compliance Order & Notice 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 East Baton Rouge 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

An initial payment of \$875.00 is to be made within thirty (30) days from notice of the Secretary's signature. The remaining balance of \$2,625.00 shall be made over a period of twelve (12) months in the amount of \$218.75 per month on the 15th of each month. 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.

2528 TUNE, INC.

BY: _____
(Signature)

(Printed)

TITLE: _____

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

NOTARY PUBLIC (ID # _____)

(stamped or printed)

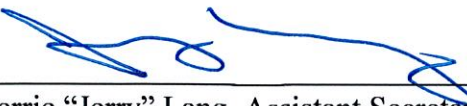
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Courtney J. Burdette, Secretary

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

OCT 28 2021

EXHIBIT

1

CERTIFIED MAIL (7020 2450 0001 6670 4017)
RETURN RECEIPT REQUESTED

2528 TUNE, INC.
c/o Kevin P. Landreneau
Agent for Service of Process
Scale & Ross
10357 Old Hammond Highway
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-CN-21-00405
AGENCY INTEREST NO. 175442**

Dear Sir/Madam:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **2528 TUNE, INC. (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to William Heintz at (225) 219-9782 or William.Heintz@la.gov.

Sincerely,

A handwritten signature in cursive script that reads "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/WJH/wjh
Alt ID No. LAR000102072
Attachment

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**2528 TUNE, INC.
EAST BATON ROUGE PARISH
ALT ID NO. LAR000102072**

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ENFORCEMENT TRACKING NO.

HE-CN-21-00405

AGENCY INTEREST NO.

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

175442

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **2528 TUNE, INC. (RESPONDENT)** 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) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates a facility known to the Department as Precision Tune Auto Care #2528, a motor vehicle service and repair shop. The facility is located at 2843 South Sherwood Forest Boulevard in Baton Rouge, East Baton Rouge Parish, Louisiana. The Respondent has been issued an agency implemented EPA identification number LAR000102072.

II.

On or about April 22, 2020, the Department issued a Notice of Deficiency (NOD) to the Respondent for violations noted during an inspection conducted on or about March 6, 2020. On or about May 13, 2020, the Respondent received the NOD. As of February 25, 2021, the Department has not received a response to the NOD.

III.

On or about March 6, 2020, the Department conducted an inspection of the above referenced facility in response to a citizen's complaint to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the supporting Regulations. 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:

- A. The Respondent failed to clearly mark or label an aboveground container used to store used oil with the words "Used Oil," in violation of LAC 33:V.4013.D.1. Specifically, one (1) tank containing used oil was not labeled as "Used Oil" at the time of the inspection. During the inspection a label with the words "Used Oil" was applied to the tank.
- B. The Respondent failed to clearly mark or label a container in which universal waste antifreeze is contained with one of the following phrases: "Universal Waste—Antifreeze," or "Waste Antifreeze," or "Used Antifreeze," in violation of LAC 33:V.3823.A.8. Specifically, one (1) tank containing used antifreeze was not properly labeled at the time of the inspection. During the inspection a label with the words "Universal Waste" was applied to the tank. Additionally, on March 31, 2020, the Department's inspector received a photograph from a representative of the Respondent documenting that the words "Used Antifreeze" had been added to the label.
- C. The Respondent failed to notify the Office of Environmental Services as a generator of hazardous waste, using the Notification of Hazardous Waste Activity Form HW-1, in violation of LAC 33:V.105.A.1. Specifically, the Respondent generated spent aerosol cans containing D003 hazardous waste propellants without notifying the Department. During the inspection it was noted that these waste aerosol cans had been placed into a dumpster.
- D. The Respondent failed to determine if solid wastes generated at the facility were hazardous wastes, in violation of LAC 33:V.1103. Specifically, the Respondent generated spent aerosol cans containing D003 hazardous waste propellants and discarded the cans into a dumpster without first performing a proper hazardous waste determination.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Hazardous Waste Regulations.

II.

To perform, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a hazardous waste determination on all solid wastes generated at the facility, including but not limited to the wastes specified in Findings of the Fact Paragraph III.D, in accordance with LAC 33:V.1103. The results of the determination shall be submitted to the Enforcement Division within fifteen (15) days of performing the waste determination. All waste shall be disposed of in accordance with the Hazardous Waste or Solid Waste regulations, whichever is applicable.

III.

To submit to the Office of Environmental Services, within seven (7) days after receipt of this **COMPLIANCE ORDER**, a complete and accurate HW-1 Notification Form notifying the Department of the Respondent's hazardous waste activity.

IV.

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 violations 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:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: William Heintz
Re: Enforcement Tracking No. HE-CN-21-00405
Agency Interest No. 175442

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

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. HE-CN-21-00405
Agency Interest No. 175442

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 twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, 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 William Heintz at (225) 219-9782 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.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 28th day of October, 2021.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: William Helntz



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE

Enforcement Tracking No.	HE-CN-21-00405	Contact Name	William Heintz
Agency Interest (AI) No.	175442	Contact Phone No.	(225) 219-9782
Alternate ID No.	LAR000102072		
Respondent:	2528 TUNE, INC. c/o Kevin P. Landreneau Agent for Service of Process Seale & Ross 10357 Old Hammond Highway Baton Rouge, LA 70816	Facility Name:	Precision Tune Auto Care
		Physical Location:	2843 S. Sherwood Forest Blvd.
		City, State, Zip:	Baton Rouge, LA 70816
		Parish:	East Baton Rouge

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph IV of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 7 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II 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)

☐	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 HE-CN-21-00405, 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 HE-CN-21-00405, 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 HE-CN-21-00405 and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

<i>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.</i>														
<table border="1"> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td>Respondent's Signature</td> <td>Respondent's Printed Name</td> <td>Respondent's Title</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> <tr> <td>Respondent's Physical Address</td> <td>Respondent's Phone #</td> <td>Date</td> </tr> </table>						Respondent's Signature	Respondent's Printed Name	Respondent's Title				Respondent's Physical Address	Respondent's Phone #	Date
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: William Heintz														