

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

UPTOWN RECYCLING, INC.

AI # 84180

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

* **Settlement Tracking No.**
* **SA-MM-25-0038**
*
* **Enforcement Tracking Nos.**
* **MM-CN-18-00559**
* **MM-CN-23-00700**
*
*
*
*
*

SETTLEMENT AGREEMENT

The following Settlement Agreement is hereby agreed to between Uptown Recycling, 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 scrapyard located in New Orleans, Orleans Parish, Louisiana ("the Facility").

II

On January 23, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-18-00559 (Exhibit 1).

On January 31, 2024, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. MM-CN-23-00700 (Exhibit 2).

The following incidents and alleged violations, although not cited in the foregoing enforcement actions, are included within the scope of this settlement: (1) Any failure to sample stormwater discharges during the second quarter, third quarter, and fourth quarter of 2022; and (2)

Any failure to sample stormwater discharges during the third quarter of 2024 and/or timely submit a Discharge Monitoring Report (DMR) regarding that quarter.

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 TEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$10,500.00), of which Two Thousand Six Hundred Seventeen and 62/100 Dollars (\$2,617.62) 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 Orders & 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 Orleans 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 over a period of twenty-four (24) months. An initial payment of \$2,625.00 must be made within thirty (30) days from notice of the Secretary's signature, 23 payments

of \$328.12 on the 15th of each month thereafter, and a final payment of \$328.24. 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 or by Electronic Funds Transfer (EFT) to the Department of Environmental Quality, in accordance with instructions provided to Respondent by the Financial Services Division. 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.

UPTOWN RECYCLING, INC.

BY: [Signature]
(Signature)

Alexis Smith Phillips
(Printed)

TITLE: Office Manager

THUS DONE AND SIGNED in duplicate original before me this 26 day of June, 20 25, at Geismar, LA.

[Signature]
NOTARY PUBLIC (ID # 205970)

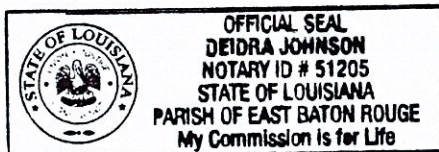
BRIANNA DEVAUX
NOTARY ID # 205970
COMMISSION IS FOR LIFE

(stamped or printed)

LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Courtney J. Burdette, Secretary

BY: [Signature]
Jerrie "Jerry" Lang, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 24th day of October, 20 25, at Baton Rouge, Louisiana.



[Signature]
NOTARY PUBLIC (ID # 51205)

(stamped or printed)

Approved: [Signature]
Jerrie "Jerry" Lang, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR

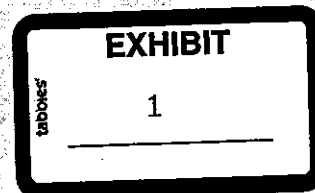


CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

January 23, 2019

CERTIFIED MAIL (7017 2400 0000 7557 3491)
RETURN RECEIPT REQUESTED



UPTOWN RECYCLING, INC.
c/o Alvin Smith
Agent for Service of Process
25 Tennyson Place
New Orleans, Louisiana 70131

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-18-00559
AGENCY INTEREST NO. 84180**

Dear Sir:

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 **UPTOWN RECYCLING, 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 Amanda Marshall at (225) 219-3095.

Sincerely,

Celena J. Cage
Administrator
Enforcement Division

CJC/ACM/acm
Alt ID No. LAR000080895
Attachment

c: Alex Smith
1320 S. Claiborne Ave.
New Orleans, Louisiana 70125

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

IN THE MATTER OF

**UPTOWN RECYCLING, INC.
ORLEANS PARISH
ALT ID NO. LAR000080895**

*

*

*

*

*

*

*

*

*

*

ENFORCEMENT TRACKING NO.

MM-CN-18-00559

AGENCY INTEREST NO.

84180

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

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **UPTOWN RECYCLING, 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), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Uptown Recycling, Inc. (the facility), a scrapyard located at 1320 South Claiborne Avenue in New Orleans, Orleans Parish, Louisiana that receives scrap metals from residents, and then sells the scraps to a larger scrapyard for processing. The facility has been assigned Department-implemented EPA Identification Number LAR000080895.

II.

On or about April 9, 2018 and April 26, 2018, inspections were conducted at the facility in response to a complaint received on March 20, 2018, which alleged the facility had piles of garbage that it set on fire at times, that smoke would bellow from the facility, and that the smoke had an odor (Incident T 183643).

While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent oper. burned solid waste, in violation of LAC 33:VII.315.M. Specifically, a representative of the Respondent stated during the April 9, 2018 inspection that the facility routinely burned office papers in a burn barrel. The representative of the Respondent stated they had been unaware that burning solid waste (office papers) was not allowed, and that the facility would no longer burn solid waste.
- B. The Respondent caused and/or allowed the unauthorized disposal of 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, the Respondent disposed of solid waste (paper, cardboard, plastic, and discarded pallets) on the ground throughout the scrapyard, and allowed solid waste to co-mingle with piles of scrap metals that were being prepared to send off for recycling. During the follow-up inspection on April 26, 2018 it was observed that while the solid waste that had been comingled with the scrap metals had been separated, miscellaneous solid waste was still present on the ground throughout the scrapyard.
- C. The Respondent failed to store used oil in a tank, container, or other unit subject to regulation, in violation of LAC 33:V.4013.B. Specifically, during the April 9, 2018 inspection, spilled auto fluids were observed on the pavement in two locations. During the follow-up inspection on April 26, 2018, the absorbent material that had been placed on top of the spilled used oil during the April 9, 2018 inspection was observed to be still on the pavement. In responses received by the Department on or about December 21, 2018 and January 8, 2019, a representative of the Respondent stated that the Respondent used their knowledge of process to determine the spilled material was used oil. The spilled material was soaked in absorbent material and stored in the facility's "waste oil" triple barrier containment reservoir before being picked up and disposed of as used oil on or about August 27, 2018.
- D. The Respondent stored more than twenty (20) whole waste tires without authorization from the Department, in violation of LAC 33:VII.10509.C. Specifically, a pile of approximately thirty (30) waste tires was observed at the facility. The facility is not an

authorized waste tire generator. During the follow-up inspection on April 26, 2018, the waste tires were still observed to be on site.

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 and Solid Waste Regulations.

II.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, burning or allowing the burning of regulated waste of any kind at the Site or any other site.

III.

To cease, immediately upon receipt of this **COMPLIANCE ORDER**, depositing or allowing the deposit of regulated solid waste of any kind at the facility, or at any other site that is not permitted to receive such waste.

IV.

To remove, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, all solid waste to a permitted or authorized solid waste disposal facility, in accordance with LAC 33:VII.315.C. The Respondent shall submit documentation of proper disposal to the Enforcement Division within fifteen (15) days of disposal.

V.

To institute procedures, immediately upon receipt of this **COMPLIANCE ORDER**, to ensure all used oil is stored in tanks, containers, or other units subject to regulation, in accordance with LAC 33:V.4013.B.

VI.

To notify the Department, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, of the Respondent's existence as a waste tire generator and obtain a generator identification number using the notification form available on the Department's website, in accordance with LAC 33:VII.10519.A.

VII.

To remove, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, all waste tires for recycling to an authorized collection center or a permitted processing facility so that no more than

twenty (20) waste tires are being stored onsite. All shipments of waste tires must comply with the manifest provisions of LAC 33:VII.10534. The Respondent shall submit documentation of proper waste tire disposal to the Enforcement Division within fifteen (15) days of disposal.

VIII.

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: Amanda Marshall
Re: Enforcement Tracking No. MM-CN-18-00559
Agency Interest No. 84180

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. MM-CN-18-00559
Agency Interest No. 84180

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 (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 Amanda Marshall at (225) 219-3095 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 23rd day of January, 2019.



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: Amanda Marshall

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.	MM-CN-18-00559	Contact Name	Amanda Marshall
Agency Interest (AI) No.	84180	Contact Phone No.	(225) 219-3095
Alternate ID No.	T183643		
Respondent:	UPTOWN RECYCLING, INC.	Facility Name:	UPTOWN RECYCLING, INC.
	c/o Alvin Smith	Physical Location:	1320 S. Claiborne Ave.
	Agent for Service of Process		
	25 Tennyson Place	City, State, Zip:	New Orleans, Louisiana 70125
	New Orleans, New Orleans 70131	Parish:	Orleans

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph VIII of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 15 days of disposal, and no later than 45 days after receipt of the COMPLIANCE ORDER, in accordance with Paragraph(s) IV, VI, and VII 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 33:11 Subpart 1 Chapter 7.
☐	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (ACM), 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 (Error! MergeField was not found in header record of data source.), 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 (Error! MergeField was not found in header record of data source.) 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: Amanda Marshall

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
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.



Louisiana Department of Environmental Quality • Office of Environmental Compliance • Enforcement Division

P.O. Box 4312, Baton Rouge, Louisiana 70821-4312

Phone: 225 | 219 | 3715 Fax: 225 | 219 | 3708

JEFF LANDRY
GOVERNOR



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

AURELIA S. GIACOMETTO
SECRETARY

EXHIBIT

tabbies

2

JEFF LANDRY
GOVERNOR



STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

AURELIA S. GIACOMETTO
SECRETARY

JAN 31 2024

CERTIFIED MAIL (7022 2410 0001 1710 3708)
RETURN RECEIPT REQUESTED

UPTOWN RECYCLING, INC.

c/o Alvin Smith
Agent for Service of Process
25 Tennyson Place
New Orleans, LA 70131

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-23-00700
AGENCY INTEREST NO. 84180**

Dear Sir:

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 **UPTOWN RECYCLING, 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 Amy Mack at (225) 219-3069 or Amy.Mack@la.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Marse".

Angela Marse
Administrator
Enforcement Division

AM/ARM/JL

Alt ID No(s). LAR000080895; R-17576; LAR05M784

Attachment

c: Uptown Recycling, Inc.
Alex Smith, Manager
1320 S. Claiborne Avenue
New Orleans, LA 70125

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

IN THE MATTER OF

**UPTOWN RECYCLING, INC.
ORLEANS PARISH
ALT ID NO(s). LAR000080895;
R-17576; LAR05M784**

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

*
*
*
*
*
*
*
*
*

ENFORCEMENT TRACKING NO.

MM-CN-23-00700

AGENCY INTEREST NO.

84180

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

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **UPTOWN RECYCLING, 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), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates Uptown Recycling, Inc. (the Facility), a scrapyard located at 1320 South Claiborne Avenue in New Orleans, Orleans Parish, Louisiana that receives scrap metals from residents, and then sells the scraps to a larger scrapyard for processing. The Facility has been assigned Department-implemented EPA Identification Number LAR000080895. The Facility is registered with the Department as a waste tire generator and is assigned facility identification number R-17576. The Respondent was granted authorization under Louisiana Pollutant Discharge Elimination System (LPDES) Storm Water Multi-Sector General Permit LAR05M784 effective on September 6, 2016, with an expiration date of May 8, 2021. LPDES Storm Water Multi-Sector General Permit LAR05M784 was administratively continued until it was reissued on December 29, 2021. LPDES Storm Water Multi-Sector General Permit LAR05M784 will expire on October 26, 2026. Under the terms and conditions of LPDES

Storm Water Multi-Sector General Permit LAR05M784, the Respondent is permitted to discharge storm water associated with industrial activities into the Lake Pontchartrain Drainage Canals (Subsegment 041302), all waters of the state.

II.

On or about June 8, 2023, the Department conducted an inspection, and a subsequent file review on January 23, 2024, in response to a citizen's complaint, of the above referenced facility to determine the degree of compliance with the Act and the supporting Hazardous Waste, Solid Waste and Water Quality Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent caused and/or allowed the unauthorized disposal of regulated solid waste without a permit and/or other authorization from the Department, in violation of La. R.S. 30:2155 and LAC 33:VII.315.C. Specifically, the Respondent disposed of regulated solid waste, including but not limited to plastic, styrofoam, wood, and rubber, on the ground throughout the scrapyard. The October 18, 2023 Warning Letter response stated that best management practices have been incorporated. These practices include daily cleanup for solid waste, including but not limited to discarded paper, cardboard, plastic, and discarded pallets; solid waste is picked up periodically throughout the day; and miscellaneous solid waste that makes it through the screening process is ultimately recycled during the process. The November 7, 2023 Warning Letter response included a copy of the Facility's Best Management Practices for Stormwater, a receipt from River Birch LLC Landfill (Agency Interest Number 32219) documenting that solid waste was disposed on October 24, 2023 at a permitted solid waste disposal facility, and photos of clean-up.
- B. The Respondent failed to manage and store used oil in a tank, container, or other unit subject to regulation, in violation of LAC 33:V.4013.B. Specifically, spilled oil was observed on pavement in three (3) locations at the Facility. During the inspection, a representative of the Respondent stated the spilled hydrocarbons were used oil from engine parts. The Department also observed absorbent material placed on one (1) area of the oil stained pavement. The October 18, 2023 Warning Letter response stated that waste oil generated onsite is stored in a triple barrier containment reservoir labeled "Used Oil" and is removed by Safety-Kleen as needed. A Generator Waste Report was

provided verifying that the Respondent transported 850 gallons of oily water to Safety-Kleen on July 21, 2023. The November 7, 2023 Warning Letter response included photos of the used oil tank and clean up of the spilled oil.

- C. The Respondent failed to clean up the released used oil, in violation of LAC 33:V.4013.E. Specifically, spilled used oil was observed on the ground in three (3) locations at the Facility. During the inspection, a representative of the Respondent stated that the spilled hydrocarbons were used oil from engine parts. The October 18, 2023 Warning Letter response stated that the Daily Best Management Practices (BMP) for Stormwater Checklist, which requires daily visual inspections and recording findings of oil spills, is made readily available to all employees. Absorbent material is used to mitigate any spillage observed by personnel during visual inspections. The absorbent material is swept up and placed into a 55-gallon barrel that is also removed by Safety-Kleen as needed. The November 7, 2023 Warning Letter response included a copy of the Facility's Daily BMP for Stormwater Checklist, receipts from O'Reilly First Call documenting purchases of absorbent material, and photos of clean up.
- D. The Department conducted a file review on January 23, 2024, which revealed that the Respondent failed to submit Discharge Monitoring Reports (DMRs) as required by LPDES Storm Water Multi-Sector General Permit LAR05M784. The Respondent was required to complete one DMR for each quarter in year two of LPDES Permit LAR05M784, which was effective on December 29, 2021, (year two runs from January 1, 2022, through December 31, 2022) and submit all DMRs by January 28, 2023. The Respondent failed to submit all DMRs for year two of LPDES Permit LAR05M784. The failure to submit DMRs is a violation of LPDES Storm Water Multi-Sector General Permit LAR05M784 (Part 3, Table 3, Sector N, Page 42 of 128; Part 5.5, Table 5, Pages 56-58 of 128; and Part 8, Section A.2, Page 106 of 128), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.4.a.i.
- E. The Department conducted a file review on January 23, 2024, which revealed that the Respondent failed to prepare any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP) as required by LPDES Storm Water Multi-Sector General Permit LAR05M784. Specifically, the Respondent's SWPPP failed to contain a site map. The Respondent is required to provide a site map of the facility with the SWPPP

and the site map shall include the information listed in LPDES Permit LAR05M784 (Part 4.3.2, Section A, Pages 46-47 of 128). The Respondent's SWPPP states a site diagram is located in Appendix B of the SWPPP; however, the SWPPP does not contain a site map. The failure to provide a site map with the SWPPP is a violation of LPDES Storm Water Multi-Sector General Permit LAR05M784 (Part 4.3.2, Section A, Pages 46-47 and Part 8, Section A.2, Page 106 of 128), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A.

- F. The Department conducted an inspection on June 8, 2023, and a subsequent file review on January 23, 2024, which revealed that the Respondent failed to implement any portion or portions of a Storm Water Pollution Prevention Plan (SWPPP). Specifically, the Respondent failed to keep clean all areas exposed to storm water that are potential sources of pollutants in accordance with LPDES Storm Water Multi-Sector General Permit LAR05M784 (Part 3.1.2). During the inspection, the Department observed accumulated oil and oil stained soil and pavement in three separate locations at the facility, including an area used to store engine parts. The Respondent's SWPPP (Part 3.4) states any spills or leaks are cleaned promptly with absorbent materials. The presence of oil stained soil and pavement in photographs 3, 4, 5, 9, 10, and 11 from the June 8, 2023, inspection indicates spills/leaks of oil were not cleaned promptly. The failure to implement the SWPPP is a violation of Respondent's SWPPP (Part 3.4), LPDES Storm Water Multi-Sector General Permit LAR05M784 (Part 3.1.2, Pages 22-23 of 128 and Part 8, Section A.2, Page 106 of 128), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.A.

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, Solid Waste and Water Quality Regulations.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, properly completed DMRs for the monitoring periods mentioned in Paragraph II.D 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."

III.

To update, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the Storm Water Pollution Prevention Plan (SWPPP) and submit a copy to the Enforcement Division within forty-five (45) days after receipt of this **COMPLIANCE ORDER**. The updated SWPPP shall address deficiencies mentioned in Paragraph IIE of the "Findings of Fact" portion of this Order.

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: Amy Mack
Re: Enforcement Tracking No. MM-CN-23-00700
Agency Interest No. 84180

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. MM-CN-23-00700
Agency Interest No. 84180

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 (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) for each day of violation for the violation(s) described herein may be assessed. 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 Amy Mack at (225) 219-3069 or Amy.Mack@la.gov 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 may submit the settlement offer within one hundred and eighty (180) days of receipt of this **NOTICE OF POTENTIAL PENALTY** portion but no later than ninety (90) days of achieving compliance with the **COMPLIANCE ORDER** portion. 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 31 day of January, 2024.



Aurelia S. Giacometto

Secretary

Louisiana Department of Environmental Quality

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: Amy Mack

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.	MM-CN-23-00700	Contact Name	Amy Mack		
Agency Interest (AI) No.	84180	Contact Phone No.	(225) 219-3069		
Alternate ID No.	LAR000080895; R-17576; LAR05M784				
Respondent:	Uptown Recycling, Inc.	Facility Name:	Uptown Recycling, Inc.		
	c/o Alvin Smith	Physical Location:	1320 S. Claiborne Avenue		
	Agent for Service of Process				
	25 Tennyson Place	City, State, Zip:	New Orleans, LA 70125		
	New Orleans, LA 70131	Parish:	Orleans		
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 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph II 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 III 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)					
<i>(check the applicable option)</i>					
☐	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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-PP-23-00700), 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-PP-23-00700), 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. The Respondent may submit the settlement offer within one hundred and eighty (180) days of receipt of this NOTICE OF POTENTIAL PENALTY portion but no later than ninety (90) days of achieving compliance with the COMPLIANCE ORDER portion. • Monetary component = \$_____ • Beneficial Environmental Project (BEP) component (optional)= \$_____ • <u>DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM</u> - 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 CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (MM-PP-23-00700) 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: Amy Mack