#### STATE OF LOUISIANA

#### DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF: 
\* Settlement Tracking No.

\* SA-RE-21-0072

CAN USA, INC.

\* Enforcement Tracking No.

AI # 2418, 164002 \* RE-CN-18-00412

k

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT

LA. R.S. 30:2001, <u>ET SEQ.</u>

#### **SETTLEMENT**

The following Settlement is hereby agreed to between CAN USA, 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").

Ι

Respondent is a corporation that owns and/or operates a facility located in Harvey, Jefferson Parish, Louisiana ("the Facility").

II

On February 6, 2019, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. RE-CN-18-00412 (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 FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00), of which Two Thousand Two and 01/100 Dollars (\$2002.01) 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), 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 Jefferson 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 Twelve Thousand Five Hundred and No/100 Dollars (\$12,500.00) is to be made within ten (10) days from notice of the Secretary's signature. The remaining Thirty-Seven Thousand Five Hundred and No/100 Dollars (\$37,500.00) shall be paid in monthly installments of \$1,041.66 over three (3) years, with the last installment submitted for the amount of \$1,041.90. 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).

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.

CAN USA, INC
BY:
/(Signature)
Jessie Mose Jn.
(Printed)
TITLE: Kadigtion Safety Officer.
THUS DONE AND SIGNED in duplicate original before me this 10 day of December, 20 dl, at 5.30 pw.
Tasha Monique Charles My Commission Expires
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LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Chuck Carr, Brown, Ph.D., Secretary
BY: Lelew & X
Relevant Cage, Assistant Secretary
Office of Environmental Compliance
THUS DONE AND SIGNED in duplicate original before mathis day of
machine the state of the state
NOTARARUBITE (ID # AMBER G. LITCHFIELD)
Notary Public State of Louisiana
Notary ID # 92503 East Baton Rouge Parish
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(stamped or printed)
Approved:
Approved:

Lourdes Iturralde, Assistant Secretary



CHUCK CARR BROWN, PH.D. SECRETARY

# State of Louisiana

# DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF ENVIRONMENTAL COMPLIANCE February 6, 2019

CERTIFIED MAIL (7017 2400 0000 7557 4917) RETURN RECEIPT REQUESTED

CAN USA, INC. c/o Clayton Hinyup Agent for Service of Process 1800 Jutland Dr. Harvey, LA 70058

RE: CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY ENFORCEMENT TRACKING NO. RE-CN-18-00412 AGENCY INTEREST NO. 2418 & 164002 -

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 CAN USA, 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 Kelly O'Neal at (225) 219-3932.

Sincerely

Celena J. Cage Administrator

**Enforcement Division** 

CJC/KAO/kao Alt ID No. LA-10258-L01 Attachment



### STATE OF LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

## OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

CAN USA, INC. PLAQUEMINES PARISH ALT ID NO. LA-10258-L01

ENFORCEMENT TRACKING NO.

RE-CN-18-00412

AGENCY INTEREST NO.

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

2418 & 164002

#### **CONSOLIDATED**

# COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY is issued to CAN USA, 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 CAN USA, Inc. located at 1800 Jutland Drive in Harvey, Jefferson Parish, Louisiana. The Respondent operates under Radioactive Material (RAM) License LA-10258-L01.

II.

On March 22, 2018, at approximately 8:23 AM, Jessie L. Mose, Jr., Corporate Radiation Safety Officer (RSO) for the Respondent notified the Department's Single Point of Contact (SPOC) of a source disconnect incident that occurred at approximately 5:40 AM within the Aromatic Extraction Unit, 1791 at the Phillips 66 Refinery (Agency Interest Number 2418), a temporary jobsite, located at 15551 Highway 23 South, in Belle Chasse, Jefferson Parish, Louisiana. According to the Respondent, the incident occurred while the radiography crew was attempting to perform a two (2) minute exposure of a weld on steel piping

located above a catwalk approximately sixteen (16) feet above the ground within Unit 1791. The exposure device, an Amersham Model 880 Delta, serial number D9222, contained an approximately 68.8 Ci sealed source of Ir-192. Lead Radiographer John Suitt (Agency Interest Number 149834) attempted to straighten out the drive cable controls to release a possible bind in the cable, but the cable did not retract. Mr. Suitt climbed the ladder to where the exposure device was suspended from the catwalk railing to reposition the camera, and again attempted to remove a possible bind in the source guide tube, but was unsuccessful. Mr. Suitt remained on the catwalk for approximately five (5) minutes next to the exposure device before he was able to retract the drive cable into the exposure device successfully. He noted his survey meter reading was off-scale while on the 10x scale indicating a radiation field greater than one hundred (100) mR/hr. Mr. Suitt then disconnected the source guide tube from the exposure device and lowered the exposure device to the ground on a rope. At 5:51 AM, Mr. Suitt descended the ladder and noted the source assembly had fallen to the ground and was approximately three (3) feet from the foot of the ladder. Mr. Suitt immediately left the area, and called the Respondent's site supervisor to report the source disconnect incident at 6:00 AM. The restricted area boundary was extended to beyond three hundred (300) feet from the source where the exposure rate was approximately two (2) mR/hr. At 6:30 AM, Assistant RSO, Julio Cruz (Agency Interest Number 50882), was able to reconnect the drive cable of the crank out controls to the source assembly successfully. The exposure device was surveyed to verify the source was properly shielded within the device. The radiological emergency was officially declared over at 7:50 AM.

III.

The Department issued **WARNING LETTER RE-L-18-00412** on or about June 19, 2018, for violations discovered during an inspection conducted on or about March 23, 2018, and March 27, 2018. A response was received by the Department on or about July 30, 2018.

IV.

On or about March 23, 2018 and March 27, 2018, the Department conducted inspections at the Respondent's facility in response to the self-reported source disconnect incident that took place at the Phillips 66 Refinery (Agency Interest Number 2418), a temporary jobsite, on March 22, 2018, in order to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the supporting Regulations. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection:

A. The Respondent failed to properly notify the Department of an individual receiving an excessive exposure of radiation, in violation of LAC 33:XV.486.B.1.a. Specifically, on

- March 22, 2018, at approximately 8:23 AM, Jessie L. Mose, Jr., notified the Department via the Single Point of Contact (SPOC) on the Department's public webpage of a source disconnect incident that occurred at approximately 5:40 AM. Mr. Mose used the public webpage to notify the Department and did not notify the Office of Environmental Compliance using the phone number set forth in the regulations. A response to WARNING LETTER RE-L-18-00412 stated the Respondent has trained all radiation workers on the correct protocols for reporting a radiation incident, and has placed the Office of Environmental Compliance phone number set forth in the regulations on the dashboard of all radiation vehicles.
- B. The Respondent failed to make, or cause to be made, surveys of areas that are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels, in violation of LAC 33:XV.430.A.2. Specifically, radiographer Willie Franklin stated during an interview conducted by the Department's inspector on March 27, 2018, that he encountered resistance after cranking out the source between two (2) to three (3) revolutions of the drive cable controls crank handle. His survey meter remained off scale while set to the 10x scale, which indicates a radiation field greater than one hundred (100) mR/hr. Mr. Franklin stated he did not switch his survey meter to the 100x scale; therefore, he did not know the exact exposure rate while the source was unshielded within the source guide tube. Additionally, Mr. Suitt stated during an interview that he did not survey the exposure device or source guide tube while standing on the catwalk while attempting to disconnect the source guide tube.
- C. The Respondent failed to use, to the extent practicable, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonable achievable (ALARA), in violation of LAC 33:XV.406.B. Specifically, Mr. Suitt climbed the catwalk ladder in order to reach the exposure device and attempt to perform a source retrieval for which he was not trained. He stated his survey instrument was off scale on the 10x scale, which indicated a high radiation field above one hundred (100) mR/hr. Based on the Department's calculations during the dose reconstruction, the exposure rate was over one thousand three hundred (1300) mR/hr at the foot of the ladder, and between ten thousand

- (10,000) and three hundred fifty thousand (350,000) mR/hr on the catwalk next to the exposure device.
- D. The Respondent failed to ensure that radiography personnel wore at all times during radiographic operations, on the trunk of their body, a direct-reading pocket dosimeter, an alarm ratemeter, and a personnel dosimeter, in violation of LAC 33:XV.577.A. Specifically, Mr. Suitt estimated his total time on the catwalk next to the unshielded source to be approximately five (5) minutes. Calculations performed during a dose reconstruction by the Department's inspector, based on Mr. Suitt's position relative to the unshielded source, for an occupancy time of five (5) minutes, show his whole body dose was calculated to be approximately three thousand (3000) mR. The March 2018 whole body dosimeter records indicated Mr. Suitt received a cumulative dose of two hundred ninety (290) mR. Therefore, it was determined Mr. Suitt did not wear his badge throughout the entire time he received an occupational exposure.
- E. The Respondent failed to ensure pocket dosimeters have a range of zero (0) to at least two hundred (200) mR, and are recharged at least daily or at the start of each shift, in violation of LAC 33:VII.577.B. Specifically, Mr. Suitt stated he did not recharge his pocket dosimeter before the start of the shift.
- F. The Respondent failed to read and record exposures of direct reading dosimeters, such as electronic personal dosimeters or pocket dosimeters, daily with use at the beginning and end of each shift, in violation of LAC 33:XV.577.D. Specifically, Mr. Suitt stated he did not read and record his pocket dosimeter reading before recharging it.
- G. The Respondent failed to ensure that the restricted area boundary has a dose rate below two (2) mR/hr, in accordance with the Respondent's Operating and Emergency Procedures, Section 8.4.1, in violation of Condition 24 of Radioactive Material License LA-10258-L01, and LAC 33:XV.320.A.2. Specifically, the radiography crew set the restricted area boundary at one hundred (100) feet at approximately 6:00 AM. At that distance, the exposure rate was approximately thirty-one (31) mR/hr, which is greater than the exposure rate limits for members of the public of two (2) mR/hr. At approximately 6:15 AM, the restricted area boundary was extended to beyond three hundred (300) feet from the source. The exposure rate at that distance was reduced to approximately two (2) mR/hr.

- H. The Respondent failed to conduct operations so that the dose in any unrestricted area from external sources does not exceed 0.02 mSv (0.002 rem) in any one hour, in violation of LAC 33:XV.421.A.2. Specifically, at approximately 6:15 AM, it was discovered that three (3) members of the public working as heat stress technicians were sitting in their work truck located within the extended restricted area boundary at a distance of approximately one hundred thirty-five (135) feet from the unshielded source. The technicians were evacuated outside of the extended restricted area boundary upon being discovered during the second extension of the restricted area boundary. Additionally, five (5) additional members of the public were stationed within the areas enclosed by the restricted area boundaries while the source was unshielded. According to calculations performed by the Respondent's Corporate RSO, each of the members of the public received exposures greater than two (2) mR/hr.
- I. The Respondent failed to maintain records showing the results of surveys of calibrations required by LAC 33:XV.430, in violation of LAC 33:XV.472.A. Specifically, the radiography crew-failed to retain records of radiation surveys of the extended restricted area boundaries. Records were created of the initial restricted area boundary, but the results were recorded as <2 mR/hr on each side of the boundary. The actual exposure levels while the source was unshielded were one hundred twenty (120) to one hundred forty-five (145) mR/hr, as calculated using the Rad Pro Calculator Health Physics software.
- J. The Respondent failed to ensure radiographers exchange badges on a monthly basis, in accordance with Form DRC-11 Section 5.a, in violation of Condition 24 of RAM License LA-10258-L01, and LAC 33:XV.320.A.2. Specifically, radiography instructor Julio Cruz was wearing his February 2018 badge instead of his March 2018 whole body badge on the day of the incident.
- K. The Respondent conducted an unlicensed source retrieval, in violation of Condition 20 of RAM License LA-10258-L01, and LAC 33:XV.320.A.2. Specifically, at approximately 6:30 AM, Mr. Cruz successfully reconnected the drive cable of the crank out controls to the source assembly; however, he was not trained to perform source retrievals. Additionally, the Respondent was not licensed to conduct source retrievals

- in Louisiana. On or about November 28, 2018, RAM License LA-10258-L01 was amended to authorize the Respondent to perform source retrievals.
- L. The Respondent failed to ensure equipment used in industrial operations is not modified in any way that would compromise the design safety features of the system, in violation of LAC 33:XV.550.A.2.c. Specifically, results of a physical inspection of the exposure device by QSA Global revealed the device failed its misconnect test. The crank out controls had been modified by duct taping a stiff piece of wire to the controls along an approximately two (2) foot section of the control cable closest to the cable's distal end. The Department's inspector observed the modification to the crank out controls on March 23, 2018.
- M. The Respondent failed to control the annual occupational dose to individual adults to a total effective dose equivalent of 0.05 Sv (5 rem), in violation of LAC 33:XV.410.A.1.a. Specifically, on April 25, 2018, the Respondent submitted their internal investigation findings. The Respondent's calculation of the whole body dose received by Mr, Suitt was 8.66 rem, which is a whole body excessive exposure.

#### 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 Radiation Protection Regulations and RAM License LA-10258-L01.

II.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure surveys of areas are made that are reasonable under the circumstances to evaluate the magnitude and extent of radiation levels, in accordance with LAC 33:XV.430.A.2.

III.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure the use of, to the extent practicable, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonable achievable (ALARA), in accordance with LAC 33:XV.406.B.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure radiographic personnel wear pocket dosimeters on the trunk of their body at all times, in accordance with LAC 33:XV.577. The Respondent shall ensure the pocket dosimeters have a range of zero (0) to at least two hundred (200) mR, and are recharged at least daily or at the start of each shift, and records of exposures are recorded daily with use at the beginning and end of each shift.

V.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure restricted area boundaries have a dose rate below two (2) mR/hr, in accordance with the Respondent's Operating and Emergency Procedures.

VI.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure operations are conducted so that the dose in any unrestricted area from external sources does not exceed 0.02 mSv (0.002 rem) in any one hour, in accordance with LAC 33:XV.421.A.2.

VII.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure records showing the results of surveys of calibrations are maintained as required by LAC 33:XV.430.

VIII.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure radiographers exchange badges on a monthly basis.

IX.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure source retrievals are only conducted by individuals authorized by RAM License LA-10258-L01.

X

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to ensure equipment used in industrial operations is not modified in any way that would compromise the design safety features of the system, in accordance with LAC 33:XV.550.A.2.c.

XI.

To immediately, upon receipt of this **COMPLIANCE ORDER**, institute procedures to control the annual occupational dose to individual adults to a total effective dose equivalent of 0.05 Sv (5 rem), in accordance with LAC 33:XV.410.A.1.a.

#### XII.

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: Kelly O'Neal

Re: Enforcement Tracking No. RE-CN-18-00412

Agency Interest No. 2418 & 164002

#### 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. RE-CN-18-00412 Agency Interest No. 2418 & 164002

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.

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 Kelly O'Neal at (225) 219-3932 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.

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

Baton Rouge, Louisiana, this

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: Kelly O'Neal

LOUISI	ANA DEPARTMENT OF	F ENVIRONMENTAL QUALITY				
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BATON	ROUGE, LOUISIANA			1	OUISIANA	
Enforce	ement Tracking No.	RE-CN-18-00412	Contact Name	Kelly O'Neal		
Agency	Interest (AI) No.	2418 & 164002	Contact Phone No.	(225) 219-3932		
Alterna	te ID No.	LA-10258-L01	Adl Address			
Respondent:		CAN USA, INC.	Facility Name:	Phillips 66 Co- Alliance Refinery		
		c/o Clayton Hinyup	Physical Location:	15551 Highway 23 South		
		Agent for Service of Process	13331 Highway		25 50utii	
		1800 Jutland Dr.	City, State, Zip:	Harvey, LA 70059		
		Harvey, LA 70058	Parish:	PLAQUEMINES		
			T.O. COLING 100	TOQUENTILES		
		STATEMEN	T OF COMPLIANCE			
STATEMENT OF COMPLIANCE				Date Completed	Copy Attached?	
A writte	en report was submit MPLIANCE ORDER.	ted in accordance with Paragraph X	(II of the "Order" portion of			
All item	s in the "Findings of F	act" portion of the COMPLIANCE OF	RDER were addressed and			
the faci	lity is being operated	to meet and maintain the requireme	ents of the "Order" portion			
of the C	OMPLIANCE ORDER.	Final compliance was achieved as of				
		SETTLEMEN	T OFFER (OPTIONAL)			
		(check the	applicable option)		- 1975-48-1-1976-48-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-	
	The Respondent is a Department has the	not interested in entering into settle right to assess civil penalties based	ment negotiations with the I on LAC 33:I.Subpart1.Chapte	Department with the ur	nderstanding that the	
	In order to resolve a the Respondent is in discuss settlement p	ny claim for civil penalties for the vio nterested in entering into settlemen procedures.	lations in NOTICE OF POTENT t negotiations with the Depar	IAL PENALTY (7017 24) tment and would like	00 0000 7557 4917 to set up a meeting t	
	the Respondent i	ny claim for civil penalties for the vio s interested in entering into s which shall include LDEQ en	ettlement negotiations wi	th the Department	and offers to pa	
	Monetary cor     Beneficial Environment	mponent = vironmental Project (BEP)componen	t (ontional)= \$			

#### **CERTIFICATION STATEMENT**

Respondent as to whether the offer is or is not accepted.

attached a justification of its offer and a description of any BEPs if included in settlement offer.

• DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (7017 2400 0000 7557 4917) and has

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 N	ame	Respon	Respondent's Title	
		The second secon		Market (Market ) (Ma	
Respondent's Physica	l Address	Respondent's Phone #		Date	
MAIL	COMPLETED DOCUMENT TO T	HE ADDRESS	BELOW:	engerynnamin utdaarge in fersite sugariag is engelete it fo naar gemaan ay ee	
Louisiana Department of Environmental Qu Office of Environmental Compliance	ality	COMMITTED TO COMMI			
Enforcement Division P.O. Box 4312					
Baton Rouge, LA 70821 Attn: Kelly O'Neal					