

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

SYSCO USA II, LLC

AI # 76436

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

* Settlement Tracking No.
* SA-AE-22-0089
*
* Enforcement Tracking Nos.
* AE-CN-13-00746
* AE-CN-19-01071
*
*
*
*

SETTLEMENT

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

I

Respondent is a limited liability company that owns and/or operates a food products storage and distribution facility located in Harahan, Jefferson Parish, Louisiana (“the Facility”).

II

On July 21, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-13-00746 (Exhibit 1).

On May 21, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. AE-CN-19-01071 (Exhibit 2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of FORTY-FIVE THOUSAND AND NO/100 DOLLARS (\$45,000.00), of which One Thousand Twenty-Three and No/100 Dollars (\$1,023.00) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Consolidated Compliance Orders & Notices 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

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

SYSCO USA II, LLC

BY: *Chris R. McCollum*
(Signature)

Chris R. McCollum
(Printed)

TITLE: Region President

THUS DONE AND SIGNED in duplicate original before me this 26 day of January, 20 23, at 2:10 pm.

J. B. [Signature]
NOTARY PUBLIC (ID # 153081)



Sayward Loftus
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Boyer W. Gingles, Secretary

BY: *Celena J. Cage*
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 31st day of May, 20 23, at Baton Rouge, Louisiana.

Jay L. Glorioso
NOTARY PUBLIC (ID # 66881)

Jay L. Glorioso
(stamped or printed)

Approved: *Celena J. Cage*
Celena J. Cage, Assistant Secretary



BOBBY JINDAL
GOVERNOR

PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

July 21, 2014

CERTIFIED MAIL (7004 2510 0006 3852 9738)
RETURN RECEIPT REQUESTED

SYSCO NEW ORLEANS, LLC
c/o Capitol Corporate Services, Inc.
Agent for Service of Process
8550 United Plaza Building II, Ste. 305
Baton Rouge, LA 70809

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-13-00746
AGENCY INTEREST NO. 76436**

Dear Sir(s):

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 **SYSCO NEW ORLEANS, LLC (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 Richard LeBlanc at (225) 219-3165.

Sincerely,

A handwritten signature in black ink, appearing to read "Celestia J. Cage".

Celestia J. Cage
Administrator
Enforcement Division

CJC/RDL/rdl
Alt ID No. N/A
Attachment



c: Sysco New Orleans, LLC
1451 River Oaks Road West
Harahan, LA 70123

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

IN THE MATTER OF	*	
	*	
SYSCO NEW ORLEANS, LLC	*	ENFORCEMENT TRACKING NO.
JEFFERSON PARISH	*	
ALT ID NO. N/A	*	AE-CN-13-00746
	*	
	*	AGENCY INTEREST NO.
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT,	*	76436
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 **SYSCO NEW ORLEANS, LLC (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 the Sysco New Orleans, LLC facility, a food products storage and distribution facility, located at 1451 River Oaks Road West in Harahan, Jefferson Parish, Louisiana. The facility is defined as Program Level 3 under the Chemical Accident Prevention Provisions due to the use of ammonia refrigeration.

II.

On or about June 11, 2013, and June 13, 2013, the Département conducted a full compliance audit for the Chemical Accident Prevention Provisions set forth in LAC 33:III.5901. Additionally, the Department conducted a file review for the facility on or about June 25, 2014.

While the Department's investigation is not yet complete, the following violations were noted during the inspection and file review:

- A. The Respondent failed to certify annually that the operating procedures are current and accurate. Specifically, the facility presented annual certifications for February 2010, February 2011 and February 2012; however, there was no annual certification for 2013 during the time of the inspection. This is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.69(c) and La. R.S. 30:2057(A)(2). The operating procedures were certified on or about June 13, 2013.
- B. The Respondent failed to perform inspections and tests on process equipment. Specifically, the Respondent did not visually inspect pipes, nor has the Respondent monitored corrosion of the pipes. Additionally, the Respondent did not perform tests or checks on instrumentation associated with the compressors. Each failure to perform inspections and tests on process equipment is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(1) and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to document each inspection and test that has been performed on process equipment. Specifically, there was no documentation of tests performed on the primary emergency shutdown device. Each failure to document inspections and tests performed on process equipment is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(4) and La. R.S. 30:2057(A)(2).
- D. The Respondent failed to periodically evaluate the performance of the contract owner or operator in fulfilling their obligations. Specifically, the Respondent failed to document any periodic observations of the contractors. Each failure to periodically evaluate the performance of the contractors is a violation of LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.87(b)(5) and La. R.S. 30:2057(A)(2).

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 Air Quality Regulations, including, but not limited to, performing inspections and tests on process equipment, documenting inspections and tests on process equipment, and periodically evaluating the performance of contractors.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited 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: Richard LeBlanc
Re: Enforcement Tracking No. AE-CN-13-00746
Agency Interest No. 76436

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. AE-CN-13-00746
Agency Interest No. 76436

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 Department's Rules of Procedure. 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 Richard LeBlanc at (225) 219-3165 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

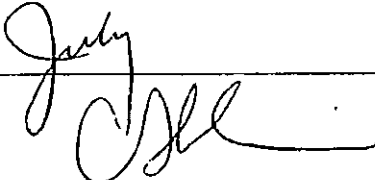
III.

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.

IV.

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

Baton Rouge, Louisiana, this 21 day of July, 2014.




Cheryl Sonnier Nolan
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: Richard LeBlanc

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**



Enforcement Tracking No.	AE-CN-19-01071	Certified Mail No.	7018 1130 0002 1720 3138
Agency Interest (AI) No.	76436	Contact Name	Madison Kirkland
Alternate ID No.	N/A	Contact Phone No.	(225) 219-3165
Respondent:	SYSCO USA II, LLC	Facility Name:	Sysco New Orleans
	c/o Corporation Service Company	Physical Location:	1451 River Oaks West
	Agent for Service of Process		
	501 Louisiana Avenue Baton Rouge, LA 70802	City, State, Zip: Parish:	Harahan, LA 70123 Jefferson Parish

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

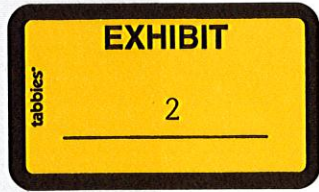
FINDINGS OF FACT

An authorized representative of the Department inspected the abovementioned facility or conducted a file review of the facility to determine the degree of compliance with regulations promulgated in the Louisiana Administrative Code, Title 33. The State regulatory citations for the violation(s) identified during the inspection and/or file review are indicated below.

I. The Respondent owns and/or operates the Sysco New Orleans facility, a food products storage and distribution facility, located at 1451 River Oaks Road West in Harahan, Jefferson Parish, Louisiana. The facility is defined as Program Level 3 under the Chemical Accident Prevention Provisions (CAPP) due to the use of ammonia refrigeration.

On June 25, 2019 through June 27, 2019, the Department conducted a full compliance audit for the Chemical Accident Prevention Provisions set forth in LAC 33:III.5901. While the investigation is not yet complete, the violations below were noted during the course of the inspections.

	Date of Violation	Description of Violation																				
II.	Inspection(s) June 25-27, 2019	<p>The Respondent failed to assure that the recommendations from the 2014 Process Hazard Analysis (PHA) were resolved in a timely manner. Specifically, the two (2) items listed in Table A below were included in the 2014 PHA recommendations and were either completed after the due date, or not yet completed at the time of the inspection. Each recommendation received a ranking of "D". The Respondent's policy states that any recommendation with a ranking of "D" shall be completed within two (2) years.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <caption>Table A</caption> <thead> <tr> <th>ITEM NUMBER</th> <th>DATE ASSIGNED</th> <th>DUE DATE</th> <th>DATE COMPLETED</th> <th>RECOMMENDATION</th> <th>CORRECTED ACTION</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>10.06</td> <td>11/19/2014</td> <td>11/19/2016</td> <td>2/17/2017</td> <td>Work with CIMCO to get the existing purger operational</td> <td>CIMCO investigated and the purger is now operational.</td> </tr> <tr> <td>2.</td> <td>16.05</td> <td>10/21/2014</td> <td>10/21/2016</td> <td>Not Complete</td> <td>Provide additional roof access for personnel wearing SCBA</td> <td>Will have installed in Fiscal Year 2019. At the time of the inspection, the recommendation was still marked as not yet completed. In correspondence dated January 6, 2020, the Respondent stated that all of the recommendations with a ranking of "D" were completed at the latest date of October 2015; however, during the Department's inspection, 16.05 was still marked as not yet complete.</td> </tr> </tbody> </table> <p>Each failure to resolve recommendations from the 2014 PHA in a timely manner is a violation of 40 CFR 68.67(e), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2).</p>	ITEM NUMBER	DATE ASSIGNED	DUE DATE	DATE COMPLETED	RECOMMENDATION	CORRECTED ACTION	1.	10.06	11/19/2014	11/19/2016	2/17/2017	Work with CIMCO to get the existing purger operational	CIMCO investigated and the purger is now operational.	2.	16.05	10/21/2014	10/21/2016	Not Complete	Provide additional roof access for personnel wearing SCBA	Will have installed in Fiscal Year 2019. At the time of the inspection, the recommendation was still marked as not yet completed. In correspondence dated January 6, 2020, the Respondent stated that all of the recommendations with a ranking of "D" were completed at the latest date of October 2015; however, during the Department's inspection, 16.05 was still marked as not yet complete.
ITEM NUMBER	DATE ASSIGNED	DUE DATE	DATE COMPLETED	RECOMMENDATION	CORRECTED ACTION																	
1.	10.06	11/19/2014	11/19/2016	2/17/2017	Work with CIMCO to get the existing purger operational	CIMCO investigated and the purger is now operational.																
2.	16.05	10/21/2014	10/21/2016	Not Complete	Provide additional roof access for personnel wearing SCBA	Will have installed in Fiscal Year 2019. At the time of the inspection, the recommendation was still marked as not yet completed. In correspondence dated January 6, 2020, the Respondent stated that all of the recommendations with a ranking of "D" were completed at the latest date of October 2015; however, during the Department's inspection, 16.05 was still marked as not yet complete.																
III.		<p>The Respondent failed to correct deficiencies identified in the five (5) year independent 2015 mechanical integrity compliance audit. Specifically, during the course of the inspection, the inspector noted that the Respondent had not completed the labeling of evaporators at the facility, which was noted as a deficiency in the 2015 mechanical integrity compliance audit. This is a violation of 40 CFR 69.73(e), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, and La. R.S. 30:2057(A)(2). In correspondence dated January 6, 2020, the Respondent stated that the remaining issue on the 2015 mechanical integrity compliance audit has been corrected.</p>																				



IV.		<p>The Respondent failed to promptly determine and document an appropriate response to each of the findings of the compliance audits. Specifically, third-party compliance audits were conducted in 2015 and 2018. In the 2015 compliance audit, it was noted that the alarms are not distinctive for each purpose of the alarm. This finding was included in the checklist of the audit, but it was not added to the finding summary and was not resolved. The following four (4) of the forty-eight (48) recommendations from the 2018 compliance audit were past due at the time of the inspection:</p> <ol style="list-style-type: none"> 1. Update the Piping and Instrumentation Diagrams, due on April 30, 2019; 2. Three (3) employees should be classified as Hazmat Technicians per Sysco's requirements, due on May 31, 2019; 3. Address recommendations from the 2015 mechanical integrity compliance audit, due on May 31, 2019; 4. Refrigeration hot work is contracted. Hot Work Program Isn't uploaded to electronic Process Safety Management (ePSM) nor is the ePSM Hot Work Permit utilized. Consider utilizing ePSM for hot work, due on May 31, 2019. <p>Each failure to promptly determine and document an appropriate response action to each of the findings of the 2015 and 2018 compliance audits is a violation of 40 CFR 68.79(d), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2). In correspondence dated January 6, 2020, the Respondent stated that all of the 2018 recommendations have been completed and that they are moving forward with getting distinctive alarms for ammonia and fire.</p>
V.	Inspection(s) June 25-27, 2019	<p>The Respondent failed to document the object on which hot work is to be performed on all permits reviewed except for permit #676903. This is a violation of 40 CFR 68.85(b), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2). In correspondence dated January 6, 2020, the Respondent stated that the Hot Work Permit Form was reviewed and the employees were re-trained on completing the entire form.</p>
VI.		<p>The Respondent failed to implement an emergency response program for the purpose of protecting public health and the environment. The Respondent's Emergency Response Plan I Section 3.2 states, "In the event of an ammonia emergency, the Sysco New Orleans, LLC Ammonia Emergency Response Team shall notify management if evacuation is necessary and make an effort toward confinement of the release to the smallest area possible...The Ammonia Emergency Response Team is comprised of individuals capable and knowledgeable in the ammonia system who, with the assistance of local emergency services, can stop and or contain a release by the operation of equipment and or valves in the system." However, the Emergency Response Plan is not consistent with the facility's practices. Specifically, during the inspection, the facility representative stated that the employees would not respond to an ammonia release, and would instead activate emergency shutdown button, evacuate, and call local responders for assistance. This is a violation of 40 CFR 68.95(a), which language has been adopted as a Louisiana regulation in LAC 33:III.5901.A, La. R.S. 30:2057(A)(2). In electronic correspondence dated July 29, 2019, the Respondent emailed the updated Emergency Response Plan and the facility is now subject to 40 CFR 68.90 for non-responding facilities rather than 40 CFR 68.95 for responding facilities.</p>

ORDER

Based on the foregoing, the Respondent is hereby ordered to comply with the requirements that are indicated below:

I.	To take, immediately upon receipt of this COMPLIANCE ORDER , any and all steps necessary to meet and maintain compliance with the Air Quality Regulations. This shall include, but not be limited to; correcting <u>all</u> of the violations described in the "Findings of Fact" portion.
II.	To submit to the Enforcement Division, within thirty (30) days after receipt of this COMPLIANCE ORDER , a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the "Order" portion of this COMPLIANCE ORDER . This report and all other reports or information required to be submitted to the Enforcement Division by this COMPLIANCE ORDER shall be submitted to the Department at the address specified in this document.
III.	To submit, within thirty (30) days after receipt of this COMPLIANCE ORDER , documentation that the recommendation on item number 16.05 from the 2014 PHA referenced in Findings of Fact paragraph II and the recommendations from the 2015 and 2018 compliance audits referenced in Findings of Fact paragraph IV were completed and indicate the applicable dates of completion.

RIGHT TO APPEAL

I.	The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this COMPLIANCE ORDER . This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this COMPLIANCE ORDER .
II.	The request for an adjudicatory hearing shall specify the provisions of the COMPLIANCE ORDER on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the address specified in this document.
III.	Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this COMPLIANCE ORDER may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Division of Administrative Law (DAL) Procedural Rules. The Department may amend or supplement this COMPLIANCE ORDER prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.
IV.	This COMPLIANCE ORDER shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.
V.	The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this COMPLIANCE ORDER shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this COMPLIANCE ORDER becoming a permanent part of its compliance history.
VI.	Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this COMPLIANCE ORDER and the provisions herein will subject the Respondent to

	possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.
VII.	For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.	Pursuant to La. R.S. 30:2050.3(8), 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 Madison.Kirkland@la.gov at (225) 219-3165 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 in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this NOTICE OF POTENTIAL PENALTY . Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.
IV.	The Department assesses civil penalties based on LAC 33:1.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.


CONTACTS AND SUBMITTAL OF INFORMATION

Enforcement Division: Louisiana Department of Environmental Quality Office of Environmental Compliance Air Enforcement Division Post Office Box 4312 Baton Rouge, LA 70821 Attn: Madison Kirkland	Hearing Requests: Department of Environmental Quality Office of the Secretary Post Office Box 4302 Baton Rouge, Louisiana 70821-4302 Attn: Hearings Clerk, Legal Division Re: Enforcement Tracking No. AE-CN-19-01071 Agency Interest No. 76436
Permit Division (if necessary): Department of Environmental Quality Office of Environmental Services Post Office Box 4313 Baton Rouge, LA 70821-4313 Attn: Air Permits Division	Physical Address (if hand delivered): Department of Environmental Quality 602 N Fifth Street Baton Rouge, LA 70802

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

- To appeal the **COMPLIANCE ORDER** portion, the Respondent must follow the guidelines set forth in the "Right to Appeal" portion of this **COMPLIANCE ORDER**.
- To request closure of this **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**, the Respondent must demonstrate compliance with the "Order" portion of this **COMPLIANCE ORDER** by completing the attached "**CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL REQUEST TO CLOSE**" form and returning it to the address specified.
- To expedite closure of the **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein.
- The Department assesses civil penalties based on LAC 33:1.Subpart1.Chapter7.
- The Respondent may offer a settlement amount but the Department is under no obligation to enter into settlement negotiations. It is decided upon on a discretionary basis.
- The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer.
- **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

If you have questions or need more information, you may contact Madison Kirkland at (225) 219-3165 or Madison.Kirkland@la.gov.



 Lourdes Iturralde
 Assistant Secretary
 Office of Environmental Compliance

Date: 5-21-2020

cc: Sysco New Orleans
Robert Segrave, Director of Fleet & Facilities
1451 River Oaks West
Harahan, LA 70123

Attachment(s)

- Request to Close

OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
 POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
 BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-19-01071	Contact Name	Madison Kirkland
Agency Interest (AI) No.	76436	Contact Phone No.	225-219-3165
Alternate ID No.	n/a	Contact Email	Madison.Kirkland@la.gov
Respondent:	SYSCO USA II, LLC	Facility Name:	Sysco New Orleans
	c/o Corporation Service Company	Physical Location:	1451 River Oaks West
	Agent for Service of Process	City, State, Zip:	Harahan, LA 70123
	501 Louisiana Avenue Baton Rouge, LA 70802	Parish:	Jefferson Parish

STATEMENT OF COMPLIANCE

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

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-19-01071), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-19-01071), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY (AE-CN-19-01071) 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: Madison Kirkland