

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

** FILED **
21SEP2017 - 08:45AM
U.S.EPA - Region 09

DOCKET NO: CAA (112r)-09-2017-0007

This ESA is issued to: Sysco Arizona, Inc.
611 S. 80th Ave.
Tolleson, AZ 85353

For: Violation of Section 112(r)(7) of the Clean Air Act.
At: Sysco Arizona, Inc., 611 S. 80th Ave., Tolleson, AZ 85353

This Expedited Settlement Agreement ("ESA") is being entered into by the United States Environmental Protection Agency ("EPA"), Region IX, by its duly delegated official, Enrique Manzanilla, Superfund Director, and Sysco Arizona, Inc. ("Respondent") pursuant to Section 113(a)(3) and (d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(a)(3) and (d), and by 40 C.F.R. § 22.13(b). EPA has obtained the concurrence of the U.S. Department of Justice, pursuant to Section 113(d)(1) of the Act, 2 U.S.C. § 7413(d)(1), to pursue this administrative enforcement action.

ALLEGED VIOLATIONS

Following its February 23, 2017 inspection, EPA alleges Respondent's failure to:

- 1) Comply with the requirements of 40 C.F.R. § 68.39(a) in that review of Sysco's worst-case release scenario indicates the release quantity should be reported as 12,269 pounds of ammonia using a maximum 80% tank capacity instead of 12,000 pounds of ammonia using a 78% tank capacity.
- 2) Comply with the requirements of 40 C.F.R. § 68.65(d) in that during the facility walk through, the inspectors did not see adequate labeling of the process equipment according to recommended and generally accepted good engineering practices. The ammonia piping located within Engine Room did not have adequate labeling. IIAR Bulletin 114, and ASME B31.3 and CGA G2.1/ANSI K61.1 Safety Requirements for Storage & Handling of Anhydrous Ammonia specify piping and equipment component identification.
- 3) Comply with the requirements of 40 C.F.R. § 68.67(e) in that the audit recommendations from the 2014 PHA failed to thoroughly document and assure that recommendations are resolved in a timely manner, document what actions are to be taken, and communicate the actions to operating, maintenance, and other employees who may be affected by the recommendations.
- 4) Comply with the requirements of 40 C.F.R. § 68.69(a) in that equipment-specific standard operating procedures (SOPs) have not been developed for the system (i.e. oil sample analysis procedure, refrigerant analysis sample procedure, ammonia unloading/charging).
- 5) Comply with the requirements of 40 C.F.R. § 68.69(a)(i)-(v) in that required SOP elements such as safety and health considerations were not included in several SOPs.
- 6) Comply with the requirements of 40 C.F.R. § 68.77(b) in that while PSSR forms included "Yes" and "No" checklists, several of the items marked as "Yes" in the July 12, 2014 and July 26, 2014 Management of Change statements did not include dates of completion to indicate that recommendations had been resolved or implemented before startup.
- 7) Comply with the requirements in 40 C.F.R. § 68.79(a) in that Sysco's three-year September 27-28,

2016 Compliance Audit was conducted 11 months late from the date of the previous Compliance Audit conducted on October 2-3, 2012.

- 8) Comply with the requirements in 40 C.F.R. § 68.79(d) in that one action item from Sysco's October 2-3, 2012 compliance audit did not include sufficient resolutions or status comments.
- 9) Comply with the requirements in 40 C.F.R. § 68.87(b)(5) in that Sysco failed to periodically evaluate its contractors' (Industrial Refrigeration & Boiler Company and Republic Refrigeration, Inc.) performance in fulfilling its obligations.

SETTLEMENT

In consideration of Respondent's size of business, its full compliance history and previous penalties assessed, if any, its good faith effort to comply, the duration and seriousness of the violation, the economic impact of the penalty, and other factors as justice may require, the parties enter into this ESA in order to settle the violations described above for the total penalty amount of **\$13,500**.

This settlement is subject to the following terms and conditions:

The Respondent by signing below admits to jurisdiction, neither admits nor denies the specific factual allegations contained above, and consents to the assessment of the penalty as stated above. Respondent waives its rights to a hearing afforded by Section 113(d)(2)(A) of the Act, 42 U.S.C §7413(d)(2)(A), and to appeal this ESA. Each party to this action shall bear its own attorney's fees and costs, if any. Respondent also certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the Respondent has corrected the violations listed above and has sent an **Online Payment through the Department of Treasury: WWW.PAY.GOV** (Enter SFO 1.1 in search field. Open form and complete required fields) **or alternatively has sent a cashier's check or certified check** (payable to the Treasurer, United States of America) in the amount of **\$13,500** in payment of the full penalty amount to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The check or online payment should reference Respondent's name and a copy of this ESA must be included with the check/online payment going to the EPA Cincinnati Finance Center. This original ESA and a copy of the check or online receipt must also be sent by certified mail to:

Angie Proboszcz (SFD-9-3)
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

Upon Respondent's submission of the signed original ESA, EPA will take no further civil penalty action against Respondent for the violations of the Act alleged above. This ESA shall not be construed as a covenant not to sue, a release, waiver, or limitation of any rights, remedies, powers, or authorities, civil or criminal that EPA has under the Act or any other statutory, regulatory, or common law enforcement authority of the United States, except as stated above.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region IX office at the above address in correct form by the Respondent within 30 days of the date of Respondent's receipt of the proposed ESA and EPA has not granted an extension of its offer to settle, the ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified herein.

This ESA is binding on the parties signing below.

This ESA is effective upon filing with the Regional Hearing Clerk.

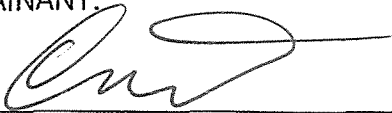
FOR RESPONDENT – Sysco Arizona, Inc.

Signature:  Date: 9/5/17

Name (print): ~~David Karlisud~~ JEREMY S. JAMES


Title (print): ~~Senior Director of Fleet and Facilities~~ VICE PRESIDENT OPERATIONS

FOR COMPLAINANT:

 Date: 9/8/17

Enrique Manzanilla
Superfund Director
U.S. EPA Region IX

It is hereby ORDERED that this ESA be entered and Respondent pays the above penalty.

 Date: 09/20/17

Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA Region IX

CERTIFICATE OF SERVICE

This is to certify that a FINAL ORDER for the Expedited Settlement Agreement (ESA) in the matter of Sysco Arizona, Inc., [Docket Number CAA(112R)-09-2017-0007], has been signed by the Regional Judicial Officer and has been filed with the Regional Hearing Clerk.

The Final Order has been served on Respondent, and Counsel for EPA, as indicated below:

BY FIRST CLASS MAIL:
(With Return Receipt)

Respondent -


Mr. Donnie Heimbaugh
Fleet and Facility Maintenance Director
Sysco Arizona, Inc.
611 S. 80th Avenue
Tolleson, AZ 85353

HAND DELIVERED:

Complainant -
(By Counsel)

Andrew Helmlinger
Office of Regional Counsel
ENVIRONMENTAL PROTECTION AGENCY
75 Hawthorne Street
San Francisco, CA. 94105

Dated at San Francisco, CA, Sept. 21, 2017;


Steven Armsey
Regional Hearing Clerk
EPA, Region 9