

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.:** 2006-1062-PWS-E    **TCEQ ID:** RN102146446    **CASE NO.:** 30509  
**RESPONDENT NAME:** Praxair, Inc.

**ORDER TYPE:**

<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

**CASE TYPE:**

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

**SITE WHERE VIOLATION(S) OCCURRED:** Praxair, 100 Strang Road, La Porte, Harris County

**TYPE OF OPERATION:** Industrial agricultural facility with a public water supply

**SMALL BUSINESS:**     Yes     No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent has expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired on February 26, 2007. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney/SEP Coordinator:** None

**TCEQ Enforcement Coordinator:** Ms. Amy Martin, Enforcement Division, Enforcement Section I, MC 169, (512) 239-2540; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

**Respondent:** Mr. Dennis Reilly, CEO, Praxair, Inc., 39 Old Ridgebury Road, Danbury, Connecticut 06810

Mr. Mark Gruninger, Vice President, Praxair, Inc., 222 Pennbright Drive, Houston, Texas 77090

**Respondent's Attorney:** Not represented by counsel on this enforcement matter

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b> <input type="checkbox"/> Complaint <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> June 1, 2006</p> <p><b>Dates of NOVs/NOE Relating to this Case:</b> July 16 and September 17, 2003; September 30, 2005; and May 12, 2006, (NOVs), July 14, 2006 (NOE)</p> <p><b>Background Facts:</b> This was a routine record review. Four violations were documented.</p> <p><b>WATER</b></p> <p>1) Exceeded the maximum contaminant level ("MCL") for total coliform bacteria [30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH &amp; SAFETY CODE § 341.031(a)].</p> <p>2) Failed to collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample [30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii)].</p> <p>3) Failed to collect and submit additional repeat water samples for bacteriological analysis following a total coliform-positive sample. [30 TEX. ADMIN. CODE § 290.109(c)(2)(F)].</p> <p>4) Exceeded the Acute MCL for total coliform bacteria [30 TEX. ADMIN. CODE § 290.109(f)(1)(A) and TEX. HEALTH &amp; SAFETY CODE § 341.031(a)].</p>	<p><b>Total Assessed:</b> \$2,050</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$0</p> <p><b>Total Paid to General Revenue:</b> \$2,050</p> <p><b>Site Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Avg. <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Justification:</b> Three repeated enforcement actions over the prior five year period for the same violation.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that Praxair, Inc. returned to compliance in June 2006. Specifically, Praxair, Inc. began bacteriological sampling and is producing water that meets or exceeds the Commission's drinking water standards.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

<b>DATES</b>	<b>Assigned</b>	24-July-2006	<b>Screening</b>	24-July-2006	<b>EPA Due</b>	05-March-2007
	<b>PCW</b>	24-July-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Praxair, Inc.
<b>Reg. Ent. Ref. No.</b>	RN102146446
<b>Facility/Site Region</b>	12-Houston
<b>Major/Minor Source</b>	Minor Source

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	30509	<b>No. of Violations</b>	4
<b>Docket No.</b>	2006-1062-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Enf. Coordinator</b>	Amy Martin
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  **Subtotals 2, 3, & 7**

Notes

**Culpability**   **Subtotal 4**

Notes

**Good Faith Effort to Comply**  **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

Notes

**Economic Benefit**  **Subtotal 6**

Total EB Amounts	\$706	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$690	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

**Screening Date** 24-July-2006      **Docket No.** 2006-1062-PWS-E      **PCW**  
**Respondent** Praxair, Inc.      *Policy Revision 2 (September 2002)*  
**Case ID No.** 30509      *PCW Revision May 19, 2005*  
**Reg. Ent. Reference No.** RN102146446  
**Media [Statute]** Public Water Supply  
**Enf. Coordinator** Amy Martin

**Compliance History Worksheet**

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	4	20%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Other	<i>Please Enter Yes or No</i>		
	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

**Adjustment Percentage (Subtotal 2)** 74%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes** Enhancement due to two 1660 orders and four prior NOVs for violations that are same or similar, and seven NOVs which are not same or similar.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 74%

<b>Screening Date</b> 24-July-2006	<b>Docket No.</b> 2006-1062-PWS-E	<b>PCW</b>
<b>Respondent</b> Praxair, Inc.		<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b> 30509		<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b> RN102146446		
<b>Media [Statute]</b> Public Water Supply		
<b>Enf. Coordinator</b> Amy Martin		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.109(f)(3)"/>	
<b>Secondary Rule Cite(s)</b>	<input type="text" value="Tex. Health &amp; Safety Code § 341.031(a)"/>	
<b>Violation Description</b>	<input type="text" value="Exceeded the Maximum Contaminant Level (MCL) for total coliform bacteria in May 2006."/>	

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

<b>Harm</b>				
<b>Release</b>	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<b>Percent</b> <input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<b>Percent</b> <input type="text"/>

Matrix Notes

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input checked="" type="checkbox"/>
<i>mark only one use a small x</i>	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input type="text"/>

**Violation Base Penalty**

One monthly event is recommended based on the exceedance of the MCL for total coliform bacteria in May 2006.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

Estimated EB Amount

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent Praxair, Inc.  
 Case ID No. 30509  
 Reg. Ent. Reference No. RN102146446  
 Media [Statute] Public Water Supply  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs		ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)					
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$120	01-May-2006	31-May-2006	1.0	\$6	\$120	\$126
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs  
 The avoided costs include the additional sampling and oversight that could have prevented the total coliform exceedances.

Approx. Cost of Compliance **\$120**

**TOTAL \$126**

<b>Screening Date</b>	24-July-2006	<b>Docket No.</b>	2006-1062-PWS-E	<b>PCW</b>
<b>Respondent</b>	Praxair, Inc.	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	30509	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN102146446			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Amy Martin			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 290.109(c)(3)(A)(ii)			
<b>Secondary Rule Cite(s)</b>				
<b>Violation Description</b>	Failure to collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample result for the month of May 2003.			
<b>Base Penalty</b>				\$1,000

>> **Environmental, Property and Human Health Matrix**

		Harm				
Release		Major	Moderate	Minor		
OR	Actual				Percent	25%
	Potential	X				

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor		
						Percent	
Matrix Notes	Failure to collect and submit repeat samples following a total coliform-positive sample result may result in undetected contaminated water being distributed to the public resulting in illness.						

**Adjustment** - \$750

**Base Penalty Subtotal** \$250

**Violation Events**

Number of Violation Events 1

<i>mark only one use a small x</i>	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
single event		

**Violation Base Penalty** \$250

One monthly event is recommended for the month of May 2003 when the appropriate number of bacteriological repeat samples were not taken.

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$210

**Violation Final Penalty Total** \$410

**This violation Final Assessed Penalty (adjusted for limits)** \$410

### Economic Benefit Worksheet

Respondent Praxair, Inc.  
 Case ID No. 30509  
 Reg. Ent. Reference No. RN102146446  
 Media [Statute] Public Water Supply  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

<b>Avoided Costs</b>							
ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)							
Item	Cost	Date	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$200	01-May-2003	31-May-2003	1.0	\$10	\$200	\$210
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs Estimated cost for submitting repeat water samples for analysis for the month of May 2003.

Approx. Cost of Compliance **\$200** **TOTAL** **\$210**



**Screening Date** 24-July-2006 **Docket No.** 2006-1062-PWS-E **PCW**

**Respondent** Praxair, Inc. *Policy Revision 2 (September 2002)*

**Case ID No.** 30509 *PCW Revision May 19, 2005*

**Reg. Ent. Reference No.** RN102146446

**Media [Statute]** Public Water Supply

**Enf. Coordinator** Amy Martin

**Violation Number**

**Primary Rule Cite(s)**

**Secondary Rule Cite(s)**

**Violation Description**

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

**Harm**

Release	Major	Moderate	Minor
Actual		X	
Potential			

OR

**Percent**

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent**

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	daily	<input type="text" value=""/>
	monthly	X
	quarterly	<input type="text" value=""/>
	semiannual	<input type="text" value=""/>
	annual	<input type="text" value=""/>
single event	<input type="text" value=""/>	

**Violation Base Penalty**

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$250"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$410"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$410"/>	

### Economic Benefit Worksheet

Respondent Praxair, Inc.  
 Case ID No. 30509  
 Reg. Ent. Reference No. RN102146446  
 Media [Statute] Public Water Supply  
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Item	ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)	Start Date	End Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$250	01-July-2003	31-July-2003	0.0	\$0	\$250	\$250
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost for submitting repeat water samples for analysis for the month of July 2003.

Approx. Cost of Compliance **\$250**

**TOTAL** **\$250**

<b>Screening Date</b>	24-July-2006	<b>Docket No.</b>	2006-1062-PWS-E	<b>PCW</b>
<b>Respondent</b>	Praxair, Inc.			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	30509			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102146446			
<b>Media [Statute]</b>	Public Water Supply			
<b>Enf. Coordinator</b>	Amy Martin			
<b>Violation Number</b>	<input type="text" value="4"/>			
<b>Primary Rule Cite(s)</b>	<input type="text" value="30 Tex. Admin. Code § 290.109(f)(1)(A)"/>			
<b>Secondary Rule Cite(s)</b>	<input type="text" value="Tex. Health &amp; Safety Code § 341.031(a)"/>			
<b>Violation Description</b>	<input type="text" value="Exceeded an Acute Maximum Contaminant Level (AMCL) for total coliform bacteria in September 2005."/>			

**Base Penalty**

>> **Environmental, Property and Human Health Matrix**

		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
OR	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text" value="50%"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input type="text"/>

**Matrix Notes**

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

**Number of Violation Events**

<i>mark only one use a small x</i>	daily	<input type="checkbox"/>
	monthly	<input checked="" type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount**

**Violation Final Penalty Total**

**This violation Final Assessed Penalty (adjusted for limits)**

### Economic Benefit Worksheet

Respondent: Praxair, Inc.  
 Case ID No. 30509  
 Reg. Ent. Reference No. RN102146446  
 Media [Statute] Public Water Supply  
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<b>Delayed Costs</b>							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)			Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$120	01-Sep-2005	31-Sep-2005	0.0	\$0	\$120	\$120
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the additional sampling and oversight that could have prevented the total coliform exceedances.

Approx. Cost of Compliance \$120

**TOTAL** \$120



5	07/22/2005	(430418)
6	07/18/2006	(487257)
7	02/25/2002	(210831)
8	02/24/2003	(210832)
9	07/16/2003	(488957)
10	03/27/2002	(210834)
11	03/21/2003	(210835)
12	04/29/2002	(210839)
13	05/02/2003	(210840)
14	08/17/2005	(445600)
15	05/31/2002	(210843)
16	09/30/2005	(487108)
17	08/01/2001	(210844)
18	06/21/2002	(210847)
19	08/01/2001	(210849)
20	03/28/2005	(375129)
21	07/17/2002	(210850)
22	03/16/2005	(387193)
23	03/16/2005	(387194)
24	09/07/2001	(210852)
25	11/19/2004	(387195)
26	02/17/2004	(317648)
27	08/19/2002	(210853)
28	12/20/2004	(387196)
29	03/11/2004	(317649)
30	10/09/2001	(210854)
31	01/17/2005	(387197)
32	05/19/2003	(317650)
33	06/23/2003	(317651)
34	09/23/2002	(210856)
35	04/19/2004	(361496)
36	07/24/2003	(317652)
37	11/01/2001	(210858)
38	02/13/2006	(477237)
39	05/17/2004	(361497)
40	08/25/2003	(317653)
41	10/24/2002	(210859)
42	03/20/2006	(477238)
43	06/21/2004	(361498)
44	09/25/2003	(317654)
45	09/17/2003	(487086)
46	07/19/2004	(361499)
47	10/31/2005	(477239)
48	08/12/2004	(361500)
49	10/22/2003	(317655)
50	11/23/2005	(477240)
51	11/26/2001	(210861)
52	09/16/2004	(361501)
53	11/25/2002	(210862)
54	12/22/2005	(477241)
55	10/20/2004	(361502)
56	11/17/2003	(317656)
57	01/16/2006	(477242)
58	12/12/2003	(317657)
59	12/27/2001	(210864)
60	01/15/2004	(317658)
61	12/27/2002	(210865)
62	01/14/2002	(210867)
63	01/27/2003	(210868)
64	06/29/2004	(276307)
65	07/09/2004	(276884)
66	04/20/2006	(503914)
67	05/17/2006	(503915)
68	06/21/2006	(503916)
69	02/10/2003	(20688)
70	05/12/2006	(487123)
71	04/09/2003	(29672)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/31/2005 (430415) Classification: Moderate  
Self Report? YES  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 06/29/2004 (276307) Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(A)  
Description: Failure to inspect the ground storage tank at least annually

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)(B)  
Description: Failure to inspect the pressure tank annually.

Date: 05/12/2006 (487123) Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)  
Description: Exceeded a Maximum Contaminant Level (MCL) Violation in 05/2006.

Date: 05/31/2003 (317651) Classification: Moderate  
Self Report? YES  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2002 (210859) Classification: Moderate  
Self Report? YES  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2003 (317654) Classification: Moderate  
Self Report? YES  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (317655) Classification: Moderate  
Self Report? YES  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (487108) Classification: Major  
Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(1)(A)  
Description: Exceeded an Acute Maximum Contaminant Level (AMCL) Violation in 09/2005.

Date: 07/16/2003 (486957) Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)  
Description: Failure to collect all the repeat samples in 05/2003 following a coliform found result.

Date: 02/10/2003 (20688) Classification: Minor  
Self Report? NO  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)  
Description: Failure to report the sample type on the 2002 monthly Discharge Monitoring Reports. The type of sample collected must be reported on the Discharge Monitoring Reports.

Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to provide notification for an alteration to the treatment process.

Date: 09/17/2003 (487086) Classification: Moderate  
Self Report? NO  
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: Failure to collect all of the 5 distribution samples in 07/2003 following a coliform found month.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
PRAXAIR, INC.  
RN102146446**

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**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2006-1062-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Praxair, Inc. under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and Praxair, Inc. presented this agreement to the Commission.

Praxair, Inc. understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, Praxair, Inc. agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon Praxair, Inc.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. Praxair, Inc. owns and operates an industrial agricultural facility with a public water supply located at 100 Strang Road in La Porte, Harris County, Texas (the "Facility") that has four service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review on June 1, 2006, TCEQ Water Supply Division staff documented that Praxair, Inc. exceeded the Maximum Contaminant Level ("MCL") for total coliform bacteria in May 2006.



3. During a record review on June 1, 2006, TCEQ Water Supply Division staff documented that Praxair, Inc. did not collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample result for the month of May 2003.
4. During a record review on June 1, 2006, TCEQ Water Supply Division staff documented that Praxair, Inc. did not collect and submit additional water samples for bacteriological analysis following a total coliform-positive sample result for the month of July 2003.
5. During a record review on June 1, 2006, TCEQ Water Supply Division staff documented that Praxair, Inc. exceeded the Acute Maximum Contaminant Level ("AMCL") for total coliform bacteria in September 2005.
6. Praxair, Inc. received notices of the violations dated July 16 and September 17, 2003, September 30, 2005, May 12 and July 14, 2006.
7. The Executive Director recognizes that Praxair, Inc. returned to compliance in June 2006. Specifically, Praxair, Inc. began bacteriological sampling and is producing water that meets or exceeds the Commission's drinking water standards.

## II. CONCLUSIONS OF LAW

1. Praxair, Inc. is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 2, Praxair, Inc. exceeded the MCL for total coliform bacteria, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(3) and TEX. HEALTH & SAFETY CODE § 341.031(a).
3. As evidenced by Finding of Fact No. 3, Praxair, Inc. failed to collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(3)(A)(ii).
4. As evidenced by Finding of Fact No. 4, Praxair, Inc. failed to collect and submit additional repeat water samples for bacteriological analysis following a total coliform-positive sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(F).
5. As evidenced by Finding of Fact No. 5, Praxair, Inc. exceeded the AMCL for total coliform bacteria, in violation of 30 TEX. ADMIN. CODE § 290.109(f)(1)(A) and TEX. HEALTH & SAFETY CODE § 341.031(a).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against Praxair, Inc. for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

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7. An administrative penalty in the amount of Two Thousand Fifty Dollars (\$2,050) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Praxair, Inc. has paid the Two Thousand Fifty Dollar (\$2,050) administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Praxair, Inc. is assessed an administrative penalty in the amount of Two Thousand Fifty Dollars (\$2,050), as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and Praxair, Inc.'s compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Praxair, Inc., Docket No. 2006-1062-PWS-E" to:  
  
Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Praxair, Inc. Praxair, Inc. is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Praxair, Inc. if the Executive Director determines that Praxair, Inc. has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against Praxair, Inc. in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile

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transmission to the other parties, which shall constitute an original signature for all purposes.

7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.





## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

\_\_\_\_\_  
  
For the Executive Director

\_\_\_\_\_  
3/19/07  
Date

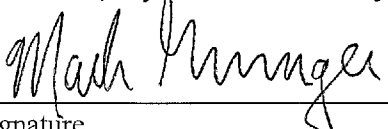
I, the undersigned, have read and understand the attached Agreed Order in the matter of Praxair, Inc. I am authorized to agree to the attached Agreed Order on behalf of Praxair, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Praxair, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

\_\_\_\_\_  
  
Signature

\_\_\_\_\_  
10/26/06  
Date

\_\_\_\_\_  
Mark Croninger  
Name (printed or typed)  
Authorized Representative  
Praxair, Inc.

\_\_\_\_\_  
Vice President  
Title

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