EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1062-PWS-E **TCEQ ID:** RN102146446

CASE NO.: 30509

RESPONDENT NAME: Praxair, Inc.

ORDER TYPE:			
_1660 AGREED ORDER	X FINDINGS AGREED ORDER	_AMENDED ORDER	_IMMINENT AND SUBSTANTIAL
_SHUTDOWN ORDER	FINDINGS DEFAULT ORDER	_EMERGENCY ORDER	ENDANGERMENT ORDER
CASE TYPE:			
AGRICULTURE	AIR	INDUSTRIAL AND HAZARDOUS WASTE	MUNICIPAL SOLID WASTE
OCCUPATIONAL CERTIFICATION	PETROLEUM STORAGE TANKS	X PUBLIC WATER SUPPLY	RADIOACTIVE WASTE
MULTI-MEDIA (check all that apply)	SEWAGE SLUDGE	_underground injection control	USED OIL
USED OIL FILTER	WATER QUALITY		
	CURRED: Praxair, 100 Strang Road, La Pagricultural facility with a public water supp		
SMALL BUSINESS: Yes	X No		
OTHER SIGNIFICANT MATTERS	: There are no complaints. There is no rec	ord of additional pending enforcement actions re	garding this facility location.
INTERESTED PARTIES: No one of	her than the ED and the Respondent has ex	pressed an interest in this matter.	
COMMENTS RECEIVED: The Text	as Register comment period expired on Feb	oruary 26, 2007. No comments were received.	
MC 219, (512) 239-1896	inator: None nator: Ms. Amy Martin, Enforcement Div	ision, Enforcement Section I, MC 169, (512) 239	9-2540; Mr. Steven Lopez, Enforcement Divisio
Respondent: Mr. Dennis Rei	lley, CEO, Praxair, Inc., 39 Old Ridgebury	Road, Danbury, Connecticut 06810	
Mr. Mark Grum Respondent's Attorney: Not	inger, Vice President, Praxair, Inc., 222 Per represented by counsel on this enforcement	nt matter	

RESPONDENT'S NAME: Praxair, Inc. DOCKET NO.: 2006-1062-PWS-E

VIOLATION SUMMARY CHART:

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

SUM OF SUBTOTALS 1-7 \$0 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 \$2,050 STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$2,050 **DEFERRAL** 0% Reduction Adjustment \$0 Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

No deferral offered for Findings Orders.

Notes

PAYABLE PENALTY

Final Subtotal

\$2,050

\$2,050

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

Respondent Praxair, Inc.

Policy Revision 2 (September 2002) PCW Revision May 19, 2005

Case ID No. 30509

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 the Asset Vis.	r Number Here	Adjust.	in suura induksi. Jan kyatti
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	4	20%	
	Other written NOVs	7	14%	
managan and a security state A.C. harving on a security	Any agreed final enforcement orders containing a denial of liability (number of-orders meeting criteria)	2	40%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement order 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	s 0	0%	
Judgments and	Any non-adjudicated final court judgments or consent decrees containing denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	a 0	0%;	
Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denia of liability, of this state or the federal government	o sections	0%	yay De
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%	
Emissions	Chronic excessive emissions events (number of events)	0	0%	-112
A 121 -	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were	0	0%	-
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	O	0%	okgē ÷
		Inter Yes or No		
	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 1	0%	
Other	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%	

No	K	Adjustment Percentage (Subtotal 3)	0%
ompliance History	Person Classifi	ication (Subtotal 7)	
Average Performer	<	Adjustment Percentage (Subtotal 7)	0%
ompliance History	Summary	NEWS COLUMN TO THE STATE OF THE	

Total Adjustment Percentage (Subtotals 2, 3, & 7) 74% were a subject to a section of the contract of

This violation Final Assessed Penalty (adjusted for limits)

	Company Ec	onomic B	enefit Wor	kshe	et		
Respondent							
Case ID No.							
Reg. Ent. Reference No.						-	one of the second secon
Media [Statute]		Supply				Percent	Years of
Violation No.	1					Interest	Depreciation
						5.0	15
	Item	Date	Final	Yrs	Interest	Onetime	EB
ltem	Cost	Required	Date	127 July 1	Saved	Costs	Amount
Description	No commas or \$	Mark all single				11504 1166	gan line es un i t
The state of th	ing the second of the state	er i Nord State (1995) Maria State (1995)	and the second seco	anders Standard i Standard	1.0		
Delayed Costs	MAD ROUGH BURGERS	Wilgiovi Lidkad Personal	Maria Capa Capalla Hali Na tamanda maria Maria M			il ili diganishna 42062 (ilifa)	دېدندا بامليمونې ايلامين
Equipment		Sala da Maria		0.0	\$0	\$0	\$C
Buildings	THE BEST OF THE STATE OF THE ST	THE RESIDENCE AND A SECURITION OF THE PROPERTY OF		0.0	\$0	\$0	\$C
Other (as needed)		Committee of the commit		0.0	\$0	\$0	\$0
Engineering/construction	SECURIO CON LONG BERT PARTEURING BET AND THE OWNER PROFIT FOR THE TOTAL CONTROL OF THE OWNER BETTER	CHARACTER STORY TO A TO A PERSON PROCESS OF THE PRO	THE COLUMN TO SERVICE AND ADDRESS OF THE COLUMN	0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$C
Record Keeping System			l	0.0	\$0	n/a	\$C
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	SECTION LINES ACCOMMENSATION OF THE PROPERTY OF		The second secon	0.0	\$0	, i h/a	\$C
Permit Costs	acie combinamentamente que	-a-thirth i demonstration and a		0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs						4 4 20	4 A 1
	<u> </u>	response			يم والمراجع في أن فيم والمستعمد والم	engagnetis (filosofen fin den en er	oenseersense v [†] . Francisco.
Avoided Costs	ANNU	ALIZE [1] avoide	d costs before en	tering ite	m (except for o	ne-time avoided o	osts)
Disposal		The second second second	1 (a) 12 (a) 12 (a) (b)	0.0	\$0	\$0	usul tipa SC
Personnel				0.0	\$0	\$0	\$0
inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment		AAAACEROAMIN KANALISIA MUUTAMINA		0.0	\$0	\$0	\$ C
Financial Assurance [2]	Control of the Contro			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)		AND DESCRIPTION OF THE PARTY OF	Annual services and a service	.0.0	\$0	\$0	\$ C
Notes for AVOIDED costs	The avolded	costs include	the additional sa the total colif	ampling orm exc	and oversigh eedances.	t that could hav	e prevented
				named of the fever			And the second second second second second
	\$120					TOTAL	\$126
Approx. Cost of Compliance	ΨΙΖΟ				and the second		•
Approx. Cost of Compliance	ΨΙΖΟ					reflected design one analysis in the contract of the con-	

Communication of the communica

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the most of Societies of all the refer to the satisfic and the

Page 5 of 10 03/12/07 H:\Agreed Orders\PraxairInc-2006-1062-PWS\2006-1062-PWS-E-qcp-Praxair Inc..wb3 Screening Date 24-July-2006 Docket No. 2006-1062-PWS-E 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** 30 Tex. Admin. Code § 290.109(c)(3)(A)(ii) Primary Rule Cite(s) Secondary Rule Cite(s) Failure to collect and submit repeat water samples for bacteriological analysis following a total coliform-positive sample result for the month of Violation Description May 2003. Base Penalty \$1,000 **Environmental, Property and Human Health Matrix** Harm Moderate Release OR Actual 25% Percent Potential **Programmatic Matrix** Falsification Moderate Percent Failure to collect and submit repeat samples following a total coliform-positive sample result may result in undetected contaminated Matrix Notes water being distributed to the public resulting in illness. -\$750 Adjustment \$250 **Base Penalty Subtotal Violation Events** Number of Violation Events daily monthly \$250 Violation Base Penalty mark only one quarterly use a small x annua One monthly event is recommended for the month of May 2003 when the appropriate number of bacteriological repeat samples were not taken. **Statutory Limit Test** Economic Benefit (EB) for this violation **Violation Final Penalty Total** \$410 **Estimated EB Amount** \$210

This violation Final Assessed Penalty (adjusted for limits)

ONE-TIME avoided costs [3]

Notes for AVOIDED costs

Approx. Cost of Compliance

Other (as needed)

1.0

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

\$200

TOTAL

\$10

\$0

\$210

\$210

Page 7 of 10 03	/12/07 H:\Agreed Order	s\PraxairInc-2006-1062-PWS\2006-1062-PW	S-E-qcp-Praxair Incwb3
Screening	Date 24-July-2006	Docket No. 2006-1062-PWS-E	PCW
	dent Praxair, Inc.		Policy Revision 2 (September 2002)
	No. 30509		PCW Revision May 19, 2005
Reg. Ent. Reference			
-	tute] Public Water Supp	ly	
	ator Amy Martin	•	
Violation Nu		0.T. A.L. (-01. 0.000.400(-\/0)\/E)	
Primary Rule C		0 Tex. Admin. Code § 290.109(c)(2)(F)	
Secondary Rule C	Failure to collect	and submit additional water samples for bacte g a total coliform-positive sample result for the July 2003.	
	Limited and a decrease of a	Bas	se Penalty \$1,000
Re OR	I, Property and Hum Harm lease Major Moderat Actual X otential]
	fication Major Moderat	Percent submit repeat samples following a total sult may result in undetected contaminated	
		ted to the public resulting in illness. Adjustment	-
		Base Penalt	y Subtotal \$25
Violation Evel	Violation Events 1 daily monthly X		
	only one quarterly small x semiannual annual single event	Violation Ba	se Penalty \$25
		nmended for the month of July 2003 when the priological additional repeat samples were not taken.	
Economic Be	nefit (EB) for this vio	olation Statutory Limit	Test
Estim	ated EB Amount \$2	Violation Final Pe	nalty Total \$410
e Berlinder gemeinte de Wilker etwe Berlinder de de Wilker etwe	This	violation Final Assessed Penalty (adjusted	for limits) \$410

0.0

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

Approx. Cost of Compliance

Notes for AVOIDED costs

Other (as needed)

\$250

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onaloi\/TOTAL

\$250

	Page 9 of 10 03/12/07	H:\Agreed Orders\F	raxairInc-2006-1062	-PWS\2006-1062-PW	S-E-qcp-Praxaiı	Incwb3
	Screening Date	24-July-2006	Docket No.	2006-1062-PWS-E		PCW
	Respondent	•			Policy Revision	2 (September 2002)
Ē	Case ID No.	30509			PCW Re	vision May 19, 2005
Reg.	Ent. Reference No.	RN102146446				İ
	Media [Statute]	Public Water Supply				
	Enf. Coordinator					
	Violation Number				——————————————————————————————————————	
	Primary Rule Cite(s)		Tex. Admin. Code § 2			
	Secondary Rule Cite(s)		. Health & Safety Cod	nt Level (AMCL) for to	al a diferen	
	Violation Description		bacteria in Septembe		ai comorm	
				Bas	se Penalty	\$1,000
>>	Environmental, Pro	operty and Human	n Health Matrix	and the second s		
	Ziivii omiiomai, i i	Harm				
	Release	Major Moderate	Minor			Ommonto de
OR	Actual			Percent 50%	7	
i	Potential		<u> </u>	reiceiti 3070	<u>.</u>	And the same of th
>>	Programmatic Mat	rix				y and a second
	Falsification		Minor		٦	
1				Percent	_	
	Evraedi	ng the MCL for coliforn	n hacteria is an indica	ation that the water is	٦	and the state of t
	Matrix Notes	contaminated and ma				B)
		AMERICA AND ADDRESS OF THE PARTY OF THE PART				, i
İ				Adjustment	-\$500	
1				Paga Banali	by Subtatal	\$500
Č.				Base Penal	y Subtotal	φ500
	Violation Events	Am				
			<u> </u>			
	Number of Viola	tion Events 1]			•
		daily	1	•		
10 10 10 10 10 10 10 10 10 10 10 10 10 1		monthly X				
	mark only one	·		Violation Ba	se Penalty	\$500
	use a small)					
1		annual single event	-			
		Ishigle event	<u>.</u>			
	One m	nonthly event is recomm	mended based on the	e exceedance of the		
		AMCL for total colifor				
-	Economic Benefit	(FR) for this viola	ation	Statutory Limit	Test	and the state of t
	MAN A COLUMN TO THE REAL PROPERTY OF THE PARTY OF THE PAR					
1	Estimated I	EB Amount \$120)]	Violation Final Pe	enalty Total	\$820
		This vi	olation Final Asses	sed Penalty (adjuste	d for limits)	\$820

Compliance History

Customer/Respondent/Owner-Operator:	CN600130645	Praxair, Inc.	Classification: AVERAGE	Rating: 2.82
Regulated Entity:	RN102146446	PRAXAIR	Classification: AVERAGE	Site Rating: 1,5
D Number(s):		D HAZARDOUS WASTE	EPA ID	TXT490014933
	GENERATION INDUSTRIAL AN GENERATION	D HAZARDOUS WASTE	SOLID WASTE REGISTRATION # (SWR)	35919
	WASTEWATER		PERMIT	WQ0002529000
	WASTEWATER		PERMIT	TPDES0088510
	WASTEWATER		PERMIT	TX0088510
	PETROLEUM ST REGISTRATION	ORAGE TANK	REGISTRATION	11158
	AIR NEW SOUR	CE PERMITS	PERMIT	12283
	AIR NEW SOUR	CE PERMITS	ACCOUNT NUMBER	HG0982M
	PUBLIC WATER	SYSTEM/SUPPLY	REGISTRATION	1012286
	WATER LICENS	ING	LICENSE	1012286
	STORMWATER		PERMIT	TXR05P826
ocation:	100 STRANG RD	, LA PORTE, TX, 77571	Rating Date: September 0 ⁻ NO	05 Repeat Violator:
TCEQ Region:	REGION 12 - HO	USTON		
Date Compliance History Prepared:	August 30, 2006			
Agency Decision Requiring Compliance History:	Enforcement			<u> </u>
Compliance Period:	July 24, 2001 to a	July 24, 2006		
		Compliance History Com		
Has the site been in existence and/or operation			Yes	
Has there been a (known) change in ownership If Yes, who is the current owner?	of the site during the	compliance period?	No	
4. if Yes, who was/were the prior owner(s)?			N/A N/A	_
5. When did the change(s) in ownership occur?			N/A	
Components (Multimedia) for the Site :			IVA	
A. Final Enforcement Orders, court judger	ments, and consent d	ecrees of the state of Texas a	nd the federal government.	
Effective Date: 07/13/2002		ADMINORDER 2001		
Classification: Moderate				
Citation: 30 TAC C	hapter 101, SubChap	ter H 101.360(a)[G]		
	Chapter 382, SubChap			
	ubmit Level of activity	certification (Form ECT-e) by		. *
Effective Date: 05/09/2005		ADMINORDER 2004	-1230-IWD-E	
Classification: Moderate	e			
Olladon.	Chapter 26, SubChap			
30 TAC C	hapter 305, SubChap	ter F 305.125(1)	•	
right i lov.	imits PERMIT			
Description: Failure to o maximum ("Dly Max") lo		tted total copper daily average	e ("Dly Avg") and daily	
Any oriminal convictions of the state of	Tevas and the feder	al government		
B. Any criminal convictions of the state of N/A	Texas and the federa	al government.		

C.

D.

N/A

Chronic excessive emissions events.

1 02/17/2005 (430414) 2 04/15/2005 (430415) 3 05/16/2005 (430416) 4 06/23/2005 (430417)

The approval dates of investigations. (CCEDS Inv. Track. No.)

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5
   07/22/2005
                  (430418)
 6
    07/18/2006
                  (487257)
 7
    02/25/2002
                  (210831)
    02/24/2003
 8
                  (210832)
 9
    07/16/2003
                  (486957)
    03/27/2002
10
                  (210834)
11
    03/21/2003
                  (210835)
12
    04/29/2002
                  (210839)
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    05/02/2003
                  (210840)
14
    08/17/2005
                  (445600)
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    05/31/2002
                  (210843)
16
    09/30/2005
                  (487108)
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                 (210867)
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                 (276307)
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   07/09/2004
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   05/17/2006
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                 (503915)
68 06/21/2006
                 (503916)
69
   02/10/2003
                 (20688)
70 05/12/2006
                 (487123)
71 04/09/2003
                 (29672)
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E.

Date: 03/31/2005

(430415)

Self Report? YES

30 TAC Chapter 305, SubChapter F 305.125(1)

Citation:

TWC Chapter 26 26.121(a)[G]

Description:

Failure to meet the limit for one or more permit parameter

Date: 06/29/2004

(276307)

Self Report? NO

Classification: Moderate

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 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)

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)

Self Report? YES

Classification: Moderate

Classification: Moderate

Classification: Moderate

Classification: Moderate

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)

Self Report? YES

Classification: Moderate

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)

(317655)

Self Report? YES

Classification: Moderate

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

Self Report? YES

Classification: Moderate

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)

Self Report? NO

Classification: Major

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)

Self Report? NO

Classification: Moderate

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

Date: 02/10/2003

(20688)

result.

Self Report? NO

Classification: Minor

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)

Self Report? NO

Classification: Moderate

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 colliform found month.

. mathematical

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



§	BEFORE THE
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§-	TEXAS COMMISSION ON
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§	ENVIRONMENTAL QUALITY
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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. unde	r the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive
Director of the TCEQ, throug	gh 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.

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- 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.

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Praxair, Inc.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
Mus	3/19/07
For the Executive Director	Date
authorized to agree to the attached Agreed Order of	tached Agreed Order in the matter of Praxair, Inc. I among behalf of Praxair, Inc., and do agree to the specified ne TCEQ, in accepting payment for the penalty amount
but not limited to, the right to formal notice of veridentiary hearing, the right to an evidentiary hear	Praxair, Inc. waives certain procedural rights, including iolations addressed by this Agreed Order, notice of aring, and the right to appeal. I agree to the terms of the Agreed Order constitutes full and final adjudication by Agreed Order.
 failure to timely pay the penalty amount, may resu A negative impact on my compliance history Greater scrutiny of any permit applications Referral of this case to the Attorney General penalties, and/or attorney fees, or Increased penalties in any future enforcem 	ory; s submitted by me; ral's Office for contempt, injunctive relief, additional to a collection agency; ent actions against me; l's Office of any future enforcement actions against y law.
May Amaly Signature	•
Signature Mark (aruninger	10/26/06 Date Vice President
Mark Gruninger Name (printed or typed) Authorized Representative	Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Ordering Provision 1 of this Agreed Order.

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