

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0791-IWD-E **TCEQ ID:** RN102286234 **CASE NO.:** 33529
RESPONDENT NAME: Air Liquide Large Industries U.S. LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Air Liquide America Freeport Plant, located on the west side of Farm-to-Market Road ("FM") 523, north of the intersection of FM 523 and State Highway 332, approximately two miles north of Freeport, Brazoria County</p> <p>TYPE OF OPERATION: Wastewater treatment system for a cryogenic air separation facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 8, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC R-12, (713) 767-3672; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. C. M. Clark, Vice President, Air Liquide Large Industries U.S. LP, 2700 Post Oak Boulevard, Suite 1800, Houston, Texas 77056 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 26, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 18, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination system ("TPDES") Permit No. WQ0001954000, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$8,250</p> <p>Total Deferred: \$1,650 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$6,600</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Air Liquide has implemented the following corrective measures at the Facility:</p> <p>a. On April 17, 2006, repaired an oil leak on a compressor;</p> <p>b. On November 1, 2006, contracted with a new laboratory to analyze permit effluent parameters after suspecting that laboratory errors were the causes of copper effluent violations; and</p> <p>c. During November 2006, achieved compliance with permit effluent limits for TPDES Permit No. WQ0001954000.</p>

Additional ID No(s): WQ0001954000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

TCEQ

DATES	Assigned	23-Apr-2007	Screening	18-May-2007	EPA Due	
	PCW	29-Jun-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	Air Liquide Large Industries U.S. LP		
Reg. Ent. Ref. No.	RN102286234		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	33529	No. of Violations	2
Docket No.	2007-0791-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

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 85% Enhancement **Subtotals 2, 3, & 7**

Notes The Respondent has one NOV for same or similar violations, 12 self-reported effluent violations, and one Agreed Order with denial language.

Culpability No 0% Enhancement **Subtotal 4**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction **Subtotal 5**

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

Notes The Respondent achieved compliance with the permitted effluent limits during November 2006.

Total EB Amounts \$579 **0% Enhancement*** **Subtotal 6**
Approx. Cost of Compliance \$10,000 **Capped at the Total EB \$ Amount*

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 Recommend reduction in the penalty so that the monthly self-reported violations don't overly impact the penalty amount.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Reduction** **Adjustment**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 18-May-2007

Docket No. 2007-0791-IWD-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 33529

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102286234

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

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 (number of NOVs meeting criteria)	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 (number of judgements or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	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) 85%

>> 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

The Respondent has one NOV for same or similar violations, 12 self-reported effluent violations, and one Agreed Order with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 18-May-2007

Docket No. 2007-0791-IWD-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 33529

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102286234

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0001954000, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

182 Number of violation days

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$3,000

Three quarterly events are recommended for February through April 2006, July 2006, August 2006, and October 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$579

Violation Final Penalty Total \$4,500

This violation Final Assessed Penalty (adjusted for limits) \$4,500

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP
Case ID No. 33529
Reg. Ent. Reference No. RN102286234
Media Water Quality
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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$10,000	1-Feb-2006	30-Nov-2006	0.8	\$28	\$552	\$579
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
 Estimated costs of repairing the compressor oil leak is \$5,000 and of evaluating contract laboratory procedures and changing contract laboratories is \$5,000. Date required is the first violation month. Final date is the date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs
 (This section is currently blank.)

Approx. Cost of Compliance **TOTAL**
\$10,000 \$579

Screening Date 18-May-2007

Docket No. 2007-0791-IWD-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 33529

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN102286234

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0001954000, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of a significant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One monthly event is recommended for September 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP
Case ID No. 33529
Reg. Ent. Reference No. RN102286234
Media Water Quality
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
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No commas or \$

Delayed Costs

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

Economic benefit for this violation is included in the economic benefit for violation 1.

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]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Respondent: Air Liquide Large Industries U.S. LP
 ID Number: RN102286234
 Docket Number: 2007-0791-IWD-E
 Enf. Coordinator: Catherine Albrecht

Corresponds to Violation 1:

OUTFALL OO1 EFFLUENT LIMITS

Month/Year	O&G Dly Avg Limit of 10.0 (in lbs/day)	O&G Dly Max Limit of 16.0 (in lbs/day)	Copper Dly Avg Limit of 0.017 (in lbs/day)	Copper Dly Max Limit of 0.036 (in lbs/day)
Feb-06	13.31	21.3	c	c
Mar-06	c	26.1	c	c
Apr-06	c	23.8	c	c
Jul-06	c	c	c	0.041
Aug-06	c	c	c	0.042
Sep-06	c	c	0.199	0.822
Oct-06	c	c	0.019	0.059

Abbreviations: Oil and Grease (“O&G”); Daily (“Dly”); Average (“Avg”); Maximum (“Max”); pounds per day (“lbs/day”); and compliant (“c”).

Compliance History

Customer/Respondent/Owner-Operator: CN600300693 Air Liquide Large Industries U.S. LP Classification: AVERAGE Rating: 3.33
 Regulated Entity: RN102286234 AIR LIQUIDE AMERICA FREEPORT PLANT Classification: AVERAGE Site Rating: 1.77

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION INDUSTRIAL AND HAZARDOUS WASTE GENERATION WASTEWATER WASTEWATER WASTEWATER STORMWATER	EPA ID SOLID WASTE REGISTRATION (SWR) PERMIT PERMIT PERMIT PERMIT	TXD096034525 31616 WQ0001954000 TPDES0065021 TX0065021 TXR05T900
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Location: West side of Farm-to-Market Road (FM) 523, north of the intersection of FM 523 and State Highway 332, approximately two miles north of the City of Freeport, Brazoria County
 Rating Date: September 01 06 Repeat Violator:NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: May 18, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 18, 2002 to May 18, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 01/30/2004	ADMINORDER 2003-0290-IWD-E
Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov:	Not specified PERMIT
Description:	Failed to comply with the permitted effluent limits for Chemical Oxygen Demand and Total Suspended Solids.
Classification:	Minor
Citation:	30 TAC Chapter 21 21.4[G] 30 TAC Chapter 290, SubChapter E 290.51(a)(3) 5B THC Chapter 361, SubChapter A 361.603(b)(2) 5B THC Chapter 370, SubChapter B 370.008[G]
Description:	Failed to pay outstanding fees.

B. Any criminal convictions of the state of Texas and the federal government.
 N/A

C. Chronic excessive emissions events.
 N/A

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

- 1 05/28/2002 (193313)
- 2 06/24/2002 (193315)
- 3 06/25/2002 (IE0018386001001)
- 4 07/19/2002 (193317)
- 5 08/16/2002 (3750)
- 6 08/23/2002 (193319)
- 7 09/10/2002 (193321)
- 8 10/23/2002 (193324)
- 9 11/18/2002 (193327)
- 10 12/30/2002 (193329)
- 11 01/29/2003 (193331)
- 12 02/26/2003 (193304)
- 13 03/20/2003 (193308)

14 04/24/2003 (193311)
15 05/22/2003 (310293)
16 06/23/2003 (310294)
17 07/10/2003 (119999)
18 07/16/2003 (310296)
19 08/18/2003 (310297)
20 09/19/2003 (248929)
21 09/25/2003 (310298)
22 10/17/2003 (310299)
23 11/19/2003 (310300)
24 12/19/2003 (310301)
25 01/20/2004 (310302)
26 02/23/2004 (310290)
27 03/23/2004 (310291)
28 04/19/2004 (310292)
29 05/17/2004 (358137)
30 06/18/2004 (310295)
31 07/21/2004 (358138)
32 08/16/2004 (358139)
33 09/20/2004 (358140)
34 10/18/2004 (385180)
35 10/25/2004 (339067)
36 11/19/2004 (385181)
37 12/13/2004 (385182)
38 01/20/2005 (385183)
39 02/21/2005 (385179)
40 03/14/2005 (423190)
41 04/18/2005 (423191)
42 04/19/2005 (376548)
43 05/23/2005 (423192)
44 06/21/2005 (423193)
45 07/20/2005 (444057)
46 08/22/2005 (444058)
47 09/20/2005 (444059)
48 10/14/2005 (474360)
49 11/16/2005 (474361)
50 12/22/2005 (474362)
51 01/20/2006 (474363)
52 02/23/2006 (474358)
53 03/24/2006 (474359)
54 04/24/2006 (502213)
55 05/22/2006 (502214)
56 06/22/2006 (502215)
57 07/21/2006 (524558)
58 08/30/2006 (524559)
59 09/25/2006 (524560)
60 10/24/2006 (549517)
61 11/30/2006 (549518)
62 12/27/2006 (549519)
63 04/19/2007 (555129)

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

Date: 05/31/2002 (193315)
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: 08/15/2002 (3750)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain permitted effluent copper limits.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain permitted effluent total suspended solids (TSS) limits.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain permitted effluent limitations.

Date: 09/30/2002 (193324)
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: 03/31/2003 (193311)
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: 10/31/2003 (310300)
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: 01/31/2005 (385179)
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: 02/28/2006 (474359)
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: 03/31/2006 (502213)
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: 04/30/2006 (502214)
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: 07/31/2006 (524559)
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: 08/31/2006 (524560)
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: 09/30/2006 (549517)
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: 10/31/2006 (549518)
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

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
AIR LIQUIDE LARGE INDUSTRIES
U.S. LP
RN102286234

§
§
§
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§
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BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0791-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Air Liquide Large Industries U.S. LP ("Air Liquide") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Air Liquide appear before the Commission and together stipulate that:

1. Air Liquide owns and operates a wastewater treatment system for a cryogenic air separation facility located on the west side of Farm-to-Market Road ("FM") 523, north of the intersection of FM 523 and State Highway 332, approximately two miles north of the City of Freeport, Brazoria County, Texas (the "Facility").
2. Air Liquide has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and Air Liquide agree that the Commission has jurisdiction to enter this Agreed Order, and that Air Liquide is subject to the Commission's jurisdiction.
4. Air Liquide received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Air Liquide of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Eight Thousand Two Hundred Fifty Dollars (\$8,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Air Liquide has paid Six Thousand Six Hundred Dollars (\$6,600) of the administrative penalty and One Thousand Six Hundred Fifty Dollars (\$1,650) is deferred contingent upon Air Liquide's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Air Liquide fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Air Liquide to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Air Liquide have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Air Liquide has implemented the following corrective measures at the Facility:
 - a. On April 17, 2006, repaired an oil leak on a compressor;
 - b. On November 1, 2006, contracted with a new laboratory to analyze permit effluent parameters after suspecting that laboratory errors were the causes of copper effluent violations; and
 - c. During November 2006, achieved compliance with permit effluent limits for Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001954000.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Air Liquide has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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.

II. ALLEGATIONS

As owner and operator of the Facility, Air Liquide is alleged to have failed to comply with permit effluent limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. WQ0001954000, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 26, 2007:

Month/Year	O&G Dly Avg Limit of 10.0 (in lbs/day)	O&G Dly Max Limit of 16.0 (in lbs/day)	Copper Dly Avg Limit of 0.017 (in lbs/day)	Copper Dly Max Limit of 0.036 (in lbs/day)
Feb-06	13.31	21.3	c	c
Mar-06	c	26.1	c	c
Apr-06	c	23.8	c	c
Jul-06	c	c	c	0.041
Aug-06	c	c	c	0.042
Sep-06	c	c	0.199	0.822
Oct-06	c	c	0.019	0.059

Abbreviations: Oil and Grease ("O&G"); Daily ("Dly"); Average ("Avg"); Maximum ("Max"); pounds per day ("lbs/day"); and compliant ("c").

III. DENIALS

Air Liquide generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Air Liquide pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Air Liquide's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Air Liquide Large Industries U.S. LP, Docket No. 2007-0791-IWD-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 Air Liquide. Air Liquide is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Air Liquide 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.
4. 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

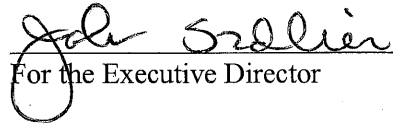
facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Air Liquide, or three days after the date on which the Commission mails notice of the Order to Air Liquide, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director


Date 11/13/07

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

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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



Signature

Date 26 JUL 07

C.M. CLARK

Name (Printed or typed)
Authorized Representative of
Air Liquide Large Industries U.S. LP

Title VICEPRES - GCPL

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

