

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2009-0222-AIR-E **TCEQ ID:** RN100233998 **CASE NO.:** 37124
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 checked="" 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 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 Large Industries US, 11400 Bay Area Boulevard, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Steam producing and electricity plant</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 July 27, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Dan Heintz, Director, Environmental Affairs, Air Liquide Large Industries U.S. LP, 11400 Bay Area Boulevard, Pasadena, Texas 77507 Mr. Roger Perreault, President, Air Liquide Large Industries U.S. LP, 11400 Bay Area Boulevard, Pasadena, Texas 77507 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: July 16 and 17, 2008</p> <p>Date of NOV/NOE Relating to this Case: December 19, 2008 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to comply with the permitted limit of 0.06 pound per million British thermal units per hour of nitrogen oxide ("NOx") for three process steam boilers (GRPBOILER UNIT ID ST-5, 6 and 7). Specifically, on 788 days from May 28, 2003, through March 8, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 11,077.63 pounds ("lbs") of NOx [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 56212, Special Condition No. 2A, Federal Operating Permit ("FOP") 1735, Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to comply with the permitted limit of NOx emissions for four stationary turbines (GRTURB UNIT ID CG-801, 802, 803 and 804). Specifically, on 36 days from April 19, 2007, through February 27, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 1,431.96 lbs of NOx [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 9346, Special Condition No. 4, FOP 1735, Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failure to comply with the permitted parts per million ("ppm") limit of carbon monoxide ("CO") for the process heater</p>	<p>Total Assessed: \$82,455</p> <p>Total Deferred: \$16,491 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$32,982</p> <p>Total Paid to General Revenue: \$32,982</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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On September 9, 2008, adjustments were made to the angle of the Inlet Guide Vanes on each of the stationary turbines, which, according to the Respondent, has yielded a more stable operation of the stationary turbines resulting in less process upsets;</p> <p>b. On January 5, 2008, a permit amendment for Air Permit No. 73110 was submitted to the agency to include CO emissions resulting from maintenance, start-up and shutdown activities in order to prevent the recurrence of CO exceedances from the process heater (SMRSTACK);</p> <p>c. On February 7, 2009, adjustments to the existing fuel control system were made to allow operators better control during start-up and shutdown activities. Specifically, the logic control scheme that controls air and fuel flow into the furnace was modified to ensure that combustion air flow is high enough to maintain excess oxygen content in the furnace, thereby reducing the potential for CO emissions from the process heater (SMRSTACK);</p> <p>d. On February 7, 2009, programming improvements were made to the data control system that monitors the Plant operations so that an audible alarm will sound whenever CO emissions are approaching the permit limit from the process heater (SMRSTACK);</p> <p>e. On February 20, 2009, installed a NOx alarm on the computer, so that the operators can be alerted and can take early corrective actions to avoid potential NOx exceedance from the process steam boilers; and</p> <p>f. On December 19, 2008, completed a training program to ensure that deviation reports and Permit Compliance Certification reports are completed with all required information and submitted within the required timeframe.</p>

<p>(SMRSTACK). Specifically, on 12 days from May 11, 2007, through March 20, 2008, there were intermittent incidences where the Respondent exceeded the permitted limit of CO by a range of 0.09-1,189.96 ppm [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 73110, Special Condition No. 8B, FOP 1735, Special Terms and Conditions No. 5, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>4) Failure to include the NOx exceedances which occurred from May 28, 2003 through April 14, 2007, in the Permit Compliance Certification reports and deviation reports dated November 12, 2003, May 13, 2004, November 12, 2004, May 13, 2005, November 12, 2005, May 13, 2006, November 12, 2006, and November 12, 2007 [30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C), FOP 1735, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the permit amendment for Air Permit No. 73110 within 15 days after the date of such requests, or by any other deadline specified in writing. If a permit amendment is not obtained, implement other measures designed to prevent recurrence of CO exceedances from the process heater (SMRSTACK); and</p> <p>b. Within 180 days after the effective date of this Agreed Order, submit written certification that Air Permit No. 73110 has been amended to include CO emissions resulting from maintenance, startup and shutdown activities or that other measures have been implemented to prevent CO exceedances of the existing permit during these activities. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.</p>
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Additional ID No(s): HG0071Q

Attachment A
Docket Number: 2009-0222-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Air Liquide Large Industries U.S. LP
Payable Penalty Amount:	Sixty-Five Thousand Nine Hundred Sixty-Four Dollars (\$65,964)
SEP Amount:	Thirty-Two Thousand Nine Hundred Eighty-Two Dollars (\$32,982)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Air Liquide Large Industries U.S. LP
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Jan-2009			
	PCW	17-Feb-2009	Screening	22-Jan-2009	EPA Due 15-Sep-2009

RESPONDENT/FACILITY INFORMATION	
Respondent	Air Liquide Large Industries U.S. LP
Reg. Ent. Ref. No.	RN100233998
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37124	No. of Violations	4
Docket No.	2009-0222-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$35,500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	146.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$51,830
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Notes: Penalty enhancement due to five agreed orders with a denial of liability, six same or similar NOV's, and eight non-similar NOV's.

Culpability	No	0.0% Enhancement	<i>Subtotal 4</i>	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$4,875
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Economic Benefit	0.0% Enhancement	<i>Subtotal 6</i>	\$0
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Total EB Amounts \$1,505
 Approx. Cost of Compliance \$9,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$82,455
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<i>Final Penalty Amount</i>	\$82,455
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$82,455
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$16,491
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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	\$65,964
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Screening Date 22-Jan-2009

Docket No. 2009-0222-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 37124

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100233998

Media [Statute] Air

Enf. Coordinator: Nadia Hameed

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)	6	30%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	5	100%
	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%
Please Enter Yes or No			
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) 146%

>> 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

Penalty enhancement due to five agreed orders with a denial of liability, six same or similar NOVs, and eight non-similar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 146%

Screening Date 22-Jan-2009	Docket No. 2009-0222-AIR-E	PCW
Respondent Air Liquide Large Industries U.S. LP	<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 37124	<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN100233998		
Media [Statute] Air		
Enf. Coordinator Nadia Hameed		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 56212, Special Condition No. 2A, Federal Operating Permit ("FOP") 1735, Special Terms and Conditions No. 5 and Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to comply with the permitted limit of 0.06 pound per million British thermal units per hour of nitrogen oxide ("NOx") for three process steam boilers (GRPBOILER UNIT ID ST-5, 6 and 7). Specifically, on 788 days from May 28, 2003, through March 8, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 11,077.63 lbs of NOx.	
Base Penalty		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="25%"/>

>> Programmatic Matrix

	Major	Moderate	Minor	
Falsification	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

- mark only one with an x*
- daily
 - weekly
 - monthly
 - quarterly
 - semiannual
 - annual
 - single event

Violation Base Penalty

Nine quarterly events are recommended based on the aggregate of non-compliant days for all three boilers.

Good Faith Efforts to Comply **10.0% Reduction**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input checked="" type="text" value="x"/>
N/A	(mark with x)	

Notes The Respondent completed the corrective actions on February 20, 2009.

Violation Subtotal

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: Air Liquide Large Industries U.S. LP

Case ID No.: 37124

Reg. Ent. Reference No.: RN100233998

Media: Air

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
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	28-May-2003	20-Feb-2009	5.74	\$19	\$383	\$402
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a NOx alarm on the emissions monitoring system to warn operators beforehand of potential problems so that measures could be taken to ensure that the allowable emissions rate is not exceeded. The date required is the date the exceedances were first documented in the deviation report. The final date is the date the corrective actions were completed.

Avoided Costs

ANNUALIZE [1]: avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$402

Screening Date 22-Jan-2009	Docket No. 2009-0222-AIR-E	PCW					
Respondent Air Liquide Large Industries U.S. LP	<small>Policy Revision 2 (September 2002)</small>						
Case ID No. 37124	<small>PCW Revision October 30, 2008</small>						
Reg. Ent. Reference No. RN100233998							
Media [Statute] Air							
Enf. Coordinator Nadia Hameed							
Violation Number <input type="text" value="2"/>							
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 9346, Special Condition No. 4, FOP 1735, Special Terms and Conditions No. 5 and Tex. Health & Safety Code § 382.085(b)						
Violation Description	Failed to comply with the permitted limit of NOx emissions for four stationary turbines (GRTURB UNIT ID CG-801, 802, 803 and 804). Specifically, on 36 days from April 19, 2007, through February 27, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 1,431.96 lbs of NOx.						
Base Penalty		<input type="text" value="\$10,000"/>					
>> Environmental, Property and Human Health Matrix							
OR	Harm						
	Release	Major	Moderate		Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="25%"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>			
>> Programmatic Matrix							
			Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.						
Adjustment <input type="text" value="\$7,500"/>							
<input type="text" value="\$2,500"/>							
Violation Events							
		Number of Violation Events <input type="text" value="1"/>	<input type="text" value="36"/> Number of violation days				
<small>mark only one with an x</small>	daily	<input type="text"/>			Violation Base Penalty <input type="text" value="\$2,500"/>		
	weekly	<input type="text"/>					
	monthly	<input type="text"/>					
	quarterly	<input checked="" type="checkbox"/>					
	semiannual	<input type="text"/>					
	annual	<input type="text"/>					
	single event	<input type="text"/>					
One quarterly event is recommended based on the aggregate of non-compliant days for all four turbines.							
Good Faith Efforts to Comply		<input type="text" value="25.0%"/> Reduction				<input type="text" value="\$625"/>	
		<small>Before NOV</small>	<small>NOV to EDPRP/Settlement Offer</small>				
Extraordinary		<input type="text"/>	<input type="text"/>				
Ordinary		<input checked="" type="checkbox"/>	<input type="text"/>				
N/A		<input type="text"/>	<small>(mark with x)</small>				
Notes		The Respondent completed the corrective actions on September 9, 2008.					
Violation Subtotal						<input type="text" value="\$1,875"/>	
Economic Benefit (EB) for this violation				Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$49"/>		Violation Final Penalty Total		<input type="text" value="\$5,525"/>	
This violation Final Assessed Penalty (adjusted for limits)						<input type="text" value="\$5,525"/>	

Economic Benefit Worksheet

Respondent: Air Liquide Large Industries U.S. LP
Case ID No: 37124
Reg. Ent. Reference No: RN100233998
Media: Air
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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Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$500	19-Apr-2007	9-Sep-2008	1.39	\$2	\$46	\$49
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling				0.00	\$0	\$0	\$0
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs
 Estimated cost to adjust the angle of the Inlet Guide Vanes on each of the turbines to ensure that the operation is more stable and the allowable emissions rate is not exceeded. The date required is the date the exceedances were first documented in the deviation report. The final date is the date corrective actions were completed.

Avoided Costs							
ANNUALIZE (1) avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$49
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Screening Date 22-Jan-2009	Docket No. 2009-0222-AIR-E
Respondent Air Liquide Large Industries U.S. LP	PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>
Case ID No. 37124	
Reg. Ent. Reference No. RN100233998	
Media [Statute] Air	
Enf. Coordinator Nadia Hameed	
Violation Number 3	
Rule Cite(s)	30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Air Permit No. 73110, Special Condition No. 8B, FOP 1735, Special Terms and Conditions No. 5 and Tex. Health & Safety Code § 382.085(b)
Violation Description	Failed to comply with the permitted parts per million ("ppm") limit of carbon monoxide ("CO") for the process heater (SMRSTACK). Specifically, on 12 days from May 11, 2007, through March 20, 2008, there were intermittent incidences where the Respondent exceeded the permitted limit of CO by a range of 0.09-1,189.96 ppm.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent <input type="text" value="0%"/>

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="checkbox"/>
weekly	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty

One quarterly event is recommended based on the aggregate of non-compliant days for the process heater.

Good Faith Efforts to Comply Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal

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: Air Liquide Large Industries U.S. LP
Case ID No.: 37124
Reg. Ent. Reference No.: RN100233998
Media: Air
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	11-May-2007	7-Feb-2009	1.75	\$6	\$117	\$122
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	11-May-2007	21-Jul-2009	2.20	\$549	n/a	\$549
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated other costs to adjust the fuel and data control systems to help prevent CO exceedances and estimated permit costs to amend the permit to cover CO emissions from maintenance, startup and shutdown activities. The date required is the date the exceedances were first documented and the final dates are the date adjustments were completed and the date a permit amendment is expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$6,000	TOTAL	\$672
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Screening Date 22-Jan-2009	Docket No. 2009-0222-AIR-E	PCW			
Respondent Air Liquide Large Industries U.S. LP	<small>Policy Revision 2 (September 2002)</small>				
Case ID No. 37124	<small>PCW Revision October 30, 2008</small>				
Reg. Ent. Reference No. RN100233998					
Media [Statute] Air					
Enf. Coordinator Nadia Hameed					
Violation Number 4					
Rule Cite(s)	30 Tex. Admin. Code §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C), FOP 1735 General Terms and Conditions and Tex. Health & Safety Code § 382.085(b)				
Violation Description	Failed to include the NOx exceedances which occurred from May 28, 2003 through April 14, 2007, in the Permit Compliance Certification reports and deviation reports dated November 12, 2003, May 13, 2004, November 12, 2004, May 13, 2005, November 12, 2005, May 13, 2006, November 12, 2006, and November 12, 2007.				
Base Penalty		\$10,000			
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	
>> Programmatic Matrix					
		Falsification	Major	Moderate	Minor
		<input type="text"/>	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>
				Percent <input type="text" value="10%"/>	
Matrix Notes	Less than 50% of the rule requirements were not met.				
Adjustment				\$9,000	
				\$1,000	
Violation Events					
Number of Violation Events <input type="text" value="8"/>		Number of violation days <input type="text" value="8"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	<input checked="" type="text" value="x"/>			
				Violation Base Penalty <input type="text" value="\$8,000"/>	
Eight single events are recommended for eight reports with missing information.					
Good Faith Efforts to Comply		<input type="text" value="25.0%"/>	Reduction	<input type="text" value="\$2,000"/>	
		Before NOV	NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>				
Ordinary	<input checked="" type="text" value="x"/>				
N/A	<input type="text"/>		<small>(mark with x)</small>		
Notes	The Respondent completed the corrective actions on December 19, 2008.				
Violation Subtotal				\$6,000	
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount <input type="text" value="\$383"/>		Violation Final Penalty Total <input type="text" value="\$17,680"/>			
This violation Final Assessed Penalty (adjusted for limits)				\$17,680	

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP
Case ID No. 37124
Reg. Ent. Reference No. RN100233998
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description : No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	\$0	\$0
Record Keeping System				0.00	\$0	\$0	\$0
Training/Sampling	\$1,500	12-Nov-2003	19-Dec-2008	5.11	\$383	\$383	\$383
Remediation/Disposal				0.00	\$0	\$0	\$0
Permit Costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for DELAYED costs

Estimated cost of training to ensure that all deviations are included in the deviation reports and in Permit Compliance Certifications that are submitted. The date required is the date of the first incomplete deviation report. The final date is the date corrective actions were completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$383

Compliance History Report

Customer/Respondent/Owner-Operator: CN600300693 Air Liquide Large Industries U.S. LP Classification: AVERAGE Rating: 3.60
 Regulated Entity: RN100233998 AIR LIQUIDE LARGE INDUSTRIES US Classification: AVERAGE Site Rating: 6.87

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0071Q
	AIR OPERATING PERMITS	PERMIT	1735
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD096026612
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	31779
	WASTEWATER	PERMIT	TX0102296000
	WASTEWATER	PERMIT	WQ0004330000
	WASTEWATER	PERMIT	TX0102296
	AIR NEW SOURCE PERMITS	PERMIT	4961
	AIR NEW SOURCE PERMITS	PERMIT	9346
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0071Q
	AIR NEW SOURCE PERMITS	REGISTRATION	37485
	AIR NEW SOURCE PERMITS	REGISTRATION	53106
	AIR NEW SOURCE PERMITS	REGISTRATION	55810
	AIR NEW SOURCE PERMITS	REGISTRATION	33713
	AIR NEW SOURCE PERMITS	REGISTRATION	11018
	AIR NEW SOURCE PERMITS	PERMIT	56212
	AIR NEW SOURCE PERMITS	REGISTRATION	70423
	AIR NEW SOURCE PERMITS	AFS NUM	4820100073
	AIR NEW SOURCE PERMITS	PERMIT	73110
	AIR NEW SOURCE PERMITS	REGISTRATION	75225
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011467
	WATER LICENSING	LICENSE	1011467

Location: 11400 BAY AREA BLVD, PASADENA, TX, 77507

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 06, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 06, 2004 to January 06, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Nadia Hameed Phone: 713-767-3629

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? Yes
3. If Yes, who is the current owner? Air Liquide Large Industries U.S. LP

Air Liquide America Corporation

Air Liquide America L.P.

N/A

4. if Yes, who was/were the prior owner(s)?

N/A

5. When did the change(s) in ownership occur?

01/01/2005

6. Rating Date: 9/1/2008 Repeat Violator: NO

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: 06/13/2004

ADMINORDER 2003-0908-PST-E

Classification: Moderate

Citation: 30 TAC Chapter 37, SubChapter I 37.815(a)

30 TAC Chapter 37, SubChapter I 37.815(b)

Description: Failure to demonstrate FA beginning 8/9/02

Effective Date: 03/23/2006

ADMINORDER 2005-1475-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: EFFLUENT LIMITS PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 05/25/2007

ADMINORDER 2006-1908-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

30 TAC Chapter 116, SubChapter F 116.617

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

30 TAC Chapter 116, SubChapter F 116.617

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

30 TAC Chapter 116, SubChapter F 116.617

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: Permit No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

30 TAC Chapter 116, SubChapter F 116.617

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)

30 TAC Chapter 116, SubChapter F 116.617

5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
30 TAC Chapter 116, SubChapter F 116.617
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: No. 75225 PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 101, SubChapter F 101.201(b)(2)(H)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failed to report the February 23, 2006, December 28, 2005, December 14, 2005, December 5, 2005, August 11, 2005, November 30, 2005, August 4, 2005, August 3, 2005, and May 15, 2005 emissions events within twenty-four hours and include the total quantity of emissions released.

Effective Date: 05/22/2008

ADMINORDER 2007-1734-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ NSR Permt No. 73110, SC 1 PERMIT

Description: Air Liquide failed to prevent a distributive control system malfunction which lead to the release of 250.11 pounds of unauthorized nitrogen oxide emissions to the atmosphere.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Air Liquide failed to submit a timely initial notification; therefore, Air Liquide does not meet the affirmative defense.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(H)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Air Liquide failed to submit the best known cause of the emissions event at the time of the initial notification.

Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(2)(I)
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Air Liquide failed to submit the actions taken to correct the emissions event at the time of the initial notification.

Effective Date: 10/23/2008

ADMINORDER 2008-0663-AIR-E

Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: TCEQ NSR Permit No. 73110, SC #1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, during a January 5, 2008 emissions event (Incident No. 102066) 381 pounds of unauthorized nitrogen oxides emissions were released from the SMR over a period of 19 hours. Since the emissions event was avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

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	01/13/2004	(257438)
2	01/27/2004	(321900)
3	02/17/2004	(321889)
4	03/12/2004	(321890)
5	04/19/2004	(321891)
6	05/14/2004	(363734)
7	06/14/2004	(321893)
8	07/15/2004	(363735)
9	08/13/2004	(250551)
10	08/16/2004	(363736)
11	09/21/2004	(363737)
12	10/21/2004	(363738)
13	12/22/2004	(388434)
14	12/27/2004	(388435)
15	01/18/2005	(388436)
16	02/18/2005	(425970)
17	02/21/2005	(344847)
18	03/22/2005	(388433)
19	04/18/2005	(425971)
20	05/10/2005	(425972)
21	06/10/2005	(425973)
22	07/11/2005	(446431)
23	07/19/2005	(399179)
24	08/05/2005	(446432)
25	08/08/2005	(402075)
26	08/11/2005	(379839)
27	08/29/2005	(403489)
28	09/08/2005	(406526)
29	09/14/2005	(431577)
30	09/19/2005	(446433)
31	10/13/2005	(479017)
32	11/07/2005	(479018)
33	12/06/2005	(479019)
34	01/12/2006	(479020)
35	01/31/2006	(479015)
36	03/07/2006	(479016)
37	04/24/2006	(504939)
38	05/22/2006	(504940)
39	06/26/2006	(504941)
40	06/27/2006	(466297)
41	06/29/2006	(482703)
42	06/29/2006	(483350)
43	07/07/2006	(482532)
44	07/07/2006	(482790)
45	07/07/2006	(482877)
46	07/07/2006	(482948)
47	07/07/2006	(483073)
48	07/07/2006	(483164)
49	07/07/2006	(483421)
50	07/07/2006	(483467)
51	07/07/2006	(483586)
52	07/07/2006	(483684)

53	07/07/2006	(483793)
54	07/07/2006	(483912)
55	07/07/2006	(484031)
56	07/07/2006	(484077)
57	07/07/2006	(484215)
58	07/15/2006	(485326)
59	07/15/2006	(485481)
60	07/21/2006	(484852)
61	07/21/2006	(527242)
62	08/11/2006	(484888)
63	08/15/2006	(527243)
64	09/01/2006	(485141)
65	09/01/2006	(485201)
66	09/01/2006	(485828)
67	09/01/2006	(486181)
68	09/01/2006	(486445)
69	09/25/2006	(527244)
70	10/06/2006	(551045)
71	10/10/2006	(489836)
72	11/14/2006	(551046)
73	12/11/2006	(551047)
74	01/12/2007	(587596)
75	01/23/2007	(532996)
76	01/23/2007	(533358)
77	02/06/2007	(538705)
78	02/16/2007	(587590)
79	02/16/2007	(587591)
80	03/15/2007	(537134)
81	03/22/2007	(587592)
82	03/29/2007	(543325)
83	04/23/2007	(587593)
84	04/30/2007	(536649)
85	04/30/2007	(538648)
86	05/31/2007	(539880)
87	06/11/2007	(587594)
88	06/11/2007	(587595)
89	06/14/2007	(561268)
90	07/16/2007	(605096)
91	08/06/2007	(605097)
92	08/28/2007	(571079)
93	09/17/2007	(605098)
94	09/26/2007	(593555)
95	10/04/2007	(694740)
96	10/08/2007	(570548)
97	11/06/2007	(628179)
98	11/08/2007	(596785)
99	12/07/2007	(628180)
100	01/17/2008	(676344)
101	02/07/2008	(676343)
102	02/08/2008	(599743)
103	02/08/2008	(599747)
104	03/31/2008	(694737)
105	04/08/2008	(636346)
106	04/23/2008	(694738)
107	05/15/2008	(694739)
108	05/19/2008	(654955)
109	06/16/2008	(716224)
110	07/22/2008	(716225)
111	08/19/2008	(716226)

112 08/30/2008 (701593)
 113 09/25/2008 (716227)
 114 11/03/2008 (689589)
 115 12/08/2008 (686458)
 116 12/17/2008 (699731)
 117 12/18/2008 (595600)

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

Date: 08/13/2004 (250551)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
Description: RE failed to include the deviations related to the gas turbines operation in the semi-annual deviation report

Date: 09/30/2004 (363738) **CN600300693**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (388434) **CN600300693**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (388435) **CN600300693**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2004 (388436) **CN600300693**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/20/2005 (399179)
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.216(a)(1)
Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.216(a).

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 101, SubChapter H 101.359

Description: Failure to comply with the requirements as found in 30 TAC 101.359(a).

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.213(a)(1)(B)(ii)

Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.213(a)(1)(B)(ii).

Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 117, SubChapter B 117.219(b)(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 FOP O-01735 SC 5A OP
 NSR Permit 56212 SC 7F PERMIT

Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.219(b)(2).

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.611(a)
 30 TAC Chapter 116, SubChapter F 116.611(b)

Description: Failure to comply with the requirements as found in 30 TAC Chapter 116.611(a) and (b).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(c)
O-01735, SC4A OP

Description: Failure to comply with the requirements as found in 40 CFR Chapter 60 Part 60.7(c).
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 117, SubChapter B 117.219(d)(1)
Description: Failure to comply with the requirements as found in 30 TAC Chapter 117.219(d).

Date: 08/05/2005 (402075) CN600300693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TPDES Permit No. 04330-000 PERMIT
Description: Failure to calibrate the flow meter annually, as required.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to maintain a temperature log for the sample storage refrigerator.
Self Report? NO Classification: Moderate
Citation: 04330-000 PERMIT
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with the self-monitored effluent limitations for Outfall 001.

Date: 01/11/2006 (438807) CN600300693
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
Description: Notification for recycling was not done.

Date: 06/30/2006 (527242) CN600300693
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/30/2007 (543325)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
5C THC Chapter 382, SubChapter D 382.085(b)
No. 75225, Special Condition No. 1 PERMIT
Description: Faulty wiring to the CO fire protection system caused Gas Turbine No. 3 to trip and release unauthorized emissions of NOx.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)
Description: Regulated Entity failed to include permit number on the Incident Report.

Date: 06/30/2008 (716225) CN600300693
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/02/2008 (701593)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.146(2)
5C THSC Chapter 382 382.085(b)
GT&C PERMIT
Description: Failure to submit the annual permit compliance certification report within 30 days

after the end of the certification period.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)
5C THSC Chapter 382 382.085(b)
GT&C OP
Description: Failure to submit two semi-annual deviation reports within 30 days after the end of the certification periods.

Date: 11/03/2008 (689589)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter F 116.615(2)
5C THSC Chapter 382 382.085(b)
TCEQ Air Permit #75225, GC#8 PA
Description: Failure to prevent unauthorized emissions, specifically the RE failed to prevent the Turbines from dropping out of the normal pre-mix combustion mode.

Date: 12/19/2008 (595600)

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 1 PERMIT
ST&C 5 PERMIT

Description: Failure to comply with the permitted pounds per hour (lb/hr) limit of Carbon Monoxide (CO) for EPN SMRSTACK SMR Process Heater

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 8C PERMIT
ST&C 5 PERMIT

Description: Failure to comply with the permitted parts per million (ppm) limit of Ammonia (NH3) for EPN SMRSTACK SMR Process Heater

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 8A PERMIT
ST&C 5 PERMIT

Description: Failure to comply with the permitted pounds per million British thermal unit (lb/mmBtu) limit of Nitrogen Oxide (NOx) for EPN SMRSTACK SMR Process Heater

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC1 PERMIT
ST&C 5 PERMIT

Description: Failure to comply with the permitted pounds per hour (lb/hr) limit of Nitrogen oxide (NO2) for EPN SMRSTACK SMR Process Heater

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
SC 1 PERMIT
ST&C 5 PERMIT

Description: Failure to comply with the permitted NOx lb/hr emissions limit for Stationary Turbines GRPTURB UNIT ID CG-801, 802, 803, and 804

F. Environmental audits.

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
RN100233998

§
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§
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§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0222-AIR-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 ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a steam producing and electricity plant at 11400 Bay Area Boulevard in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 24, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighty-Two Thousand Four Hundred Fifty-Five Dollars (\$82,455) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Thirty-Two Thousand Nine Hundred Eighty-Two

Dollars (\$32,982) of the administrative penalty and Sixteen Thousand Four Hundred Ninety-One Dollars (\$16,491) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirty-Two Thousand Nine Hundred Eighty-Two Dollars (\$32,982) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 the Respondent 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. On September 9, 2008, adjustments were made to the angle of the Inlet Guide Vanes on each of the stationary turbines, which according to the Respondent has yielded a more stable operation of the stationary turbines resulting in less process upsets;
 - b. On January 5, 2008, a permit amendment for Air Permit No. 73110 was submitted to the agency to include carbon monoxide ("CO") emissions resulting from maintenance, start-up and shutdown activities in order to prevent the recurrence of CO exceedances from the process heater (SMRSTACK);
 - c. On February 7, 2009, adjustments to the existing fuel control system were made to allow operators better control during start-up and shutdown activities. Specifically, the logic control scheme that controls air and fuel flow into the furnace was modified to ensure that combustion air flow is high enough to maintain excess oxygen content in the furnace, thereby reducing the potential for CO emissions from the process heater (SMRSTACK);
 - d. On February 7, 2009, programming improvements were made to the data control system that monitors the Plant operations so that an audible alarm will sound whenever CO emissions are approaching the permit limit from the process heater (SMRSTACK);
 - e. On February 20, 2009, installed a nitrogen oxide ("NOx") alarm on the computer, so that the operators can be alerted and can take early corrective actions to avoid potential NOx exceedance from the process steam boilers; and
 - f. On December 19, 2008, completed a training program to ensure that deviation reports and Permit Compliance Certification reports are completed with all required information and submitted within the required timeframe.
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 the Respondent 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 Plant, the Respondent is alleged to have:

1. Failed to comply with the permitted limit of 0.06 pound per million British thermal units per hour of NO_x for three process steam boilers (GRPBOILER UNIT ID ST-5, 6 and 7), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 56212, Special Condition No. 2A, Federal Operating Permit ("FOP") 1735, Special Terms and Conditions No. 5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 16 and 17, 2008. Specifically, on 788 days from May 28, 2003, through March 8, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 11,077.63 lbs of NO_x.
2. Failed to comply with the permitted limit of NO_x emissions for four stationary turbines (GRTURB UNIT ID CG-801, 802, 803 and 804), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 9346, Special Condition No. 4, FOP 1735, Special Terms and Conditions No. 5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 16 and 17, 2008. Specifically, on 36 days from April 19, 2007, through February 27, 2008, intermittent incidences occurred which resulted in unauthorized emissions of 1,431.96 lbs of NO_x.
3. Failed to comply with the permitted parts per million ("ppm") limit of CO for the process heater (SMRSTACK), in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), Air Permit No. 73110, Special Condition No. 8B, FOP 1735, Special Terms and Conditions No. 5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 16 and 17, 2008. Specifically, on 12 days from May 11, 2007, through March 20, 2008, there were intermittent incidences where the Respondent exceeded the permitted limit of CO by a range of 0.09-1,189.96 ppm.
4. Failed to include the NO_x exceedances which occurred from May 28, 2003 through April 14, 2007, in the Permit Compliance Certification reports and deviation reports dated November 12, 2003, May 13, 2004, November 12, 2004, May 13, 2005, November 12, 2005, May 13, 2006, November 12, 2006, and November 12, 2007, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4), 122.145(2)(A), and 122.146(5)(C), FOP 1735, General Terms and Conditions and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 16 and 17, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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. 2009-0222-AIR-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Thirty-Two Thousand Nine Hundred Eighty-Two Dollars (\$32,982) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Respond completely and adequately, as determined by the Executive Director, to all written requests for information concerning the permit amendment for Air Permit No. 73110 within 15 days after the date of such requests, or by any other deadline specified in writing. If a permit amendment is not obtained, implement other measures designed to prevent recurrence of CO exceedances from the process heater (SMRSTACK); and
 - b. Within 180 days after the effective date of this Agreed Order, submit written certification that Air Permit No. 73110 has been amended to include CO emissions resulting from maintenance, startup and shutdown activities or that other measures have been implemented to prevent CO exceedances of the existing permit during these activities. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

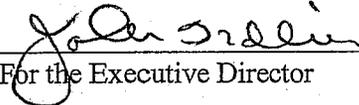
Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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 7/13/2009

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:

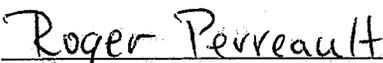
- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement 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 5/22/09



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

Title President, ALLIUS

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.

Attachment A
Docket Number: 2009-0222-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Air Liquide Large Industries U.S. LP

Payable Penalty Amount: Sixty-Five Thousand Nine Hundred Sixty-Four Dollars
(\$65,964)

SEP Amount: Thirty-Two Thousand Nine Hundred Eighty-Two Dollars
(\$32,982)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles
Program

Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Air Liquide Large Industries U.S. LP
Agreed Order - Attachment A

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

