

**Executive Summary – Enforcement Matter – Case No. 44959**  
**Lhoist North America of Texas, Ltd.**  
**RN100552454**  
**Docket No. 2012-1862-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

New Braunfels Lime Plant, 350 APG Lane, New Braunfels, Comal County

**Type of Operation:**

Lime manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: Yes, Docket No. 2011-0274-AIR-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** February 15, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,075

**Amount Deferred for Expedited Settlement:** \$3,015

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$12,060

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 44959**  
**Lhoist North America of Texas, Ltd.**  
**RN100552454**  
**Docket No. 2012-1862-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 17-28, 2012

**Date(s) of NOE(s):** August 31, 2012

***Violation Information***

1. Failed to maintain an emissions rate below the allowable emissions rate. Specifically, the nitrogen oxides ("NOx") emissions rate of 105 pounds per hour ("lbs/hr") based on a 30-day rolling average at the Rotary Kiln 2 [Emission Point Number ("EPN") 13KLN2STK] was exceeded on October 29, 2011 and October 30, 2011 with NOx emissions rates of 121.40 lbs/hr and 121.62 lbs/hr based on a 30-day rolling average, respectively [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), New Source Review ("NSR") Permit Nos. 7808 and PSDTX256M3 Special Conditions No. 1, Federal Operating Permit ("FOP") No. O-01122 Special Terms and Conditions ("STC") No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to maintain an emissions limit below the allowable emissions limit. Specifically, the emissions rate of 5.0 pounds of NOx per ton of lime produced ("lbs/tp") was exceeded at the Rotary Kiln 2 (EPN 13KLN2STK) from October 22, 2011 through October 31, 2011, and the NOx emissions limit of 2.6 lbs/tp was exceeded at the Rotary Kiln 3 (EPN 9KLN3STK) from September 21, 2011 through October 21, 2011, respectively [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), NSR Nos. 7808 and PSDTX256M3 Special Conditions No. 3, FOP No. O-01122 STC No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By September 19, 2012, Respondent has implemented the following corrective measures:

- a. Implemented a new burner management system to increase the control over the air/fuel ratio and the emission intensity;
- b. Installed a dedicated monitor at the kiln operator's station for continuous viewing of the Continuous Emissions Monitoring System ("CEMS") information for emissions concentrations and rates, and control of the kiln operation; and
- c. Trained kiln operators and technicians on emission interaction between carbon monoxide and NOx and the new computer page, as well as the CEMS analyzer.

**Technical Requirements:**

N/A

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**Docket No. 2012-1862-AIR-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Heather Podlipny, Enforcement Division,  
Enforcement Team 4, MC 149, (512) 239-2603; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Aaron Jones, Plant Manager, Lhoist North America of Texas, Ltd., 350  
APG Lane, New Braunfels, Texas 78132  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	4-Sep-2012	<b>Screening</b>	7-Sep-2012	<b>EPA Due</b>	28-May-2013
	<b>PCW</b>	14-Sep-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	Lhoist North America of Texas, Ltd.
<b>Reg. Ent. Ref. No.</b>	RN100552454
<b>Facility/Site Region</b>	13-San Antonio
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	2
<b>Enf./Case ID No.</b>	44959	<b>Order Type</b>	1660
<b>Docket No.</b>	2012-1862-AIR-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Air	<b>Enf. Coordinator</b>	Heather Podlipny
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 4
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$11,250
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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.

<b>Compliance History</b>	44.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$4,950
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Notes

Enhancement for two NOVs with non-similar violations and for two agreed orders with denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,125
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$165
Approx. Cost of Compliance	\$3,544

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$15,075
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$15,075
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$15,075
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<b>DEFERRAL</b>	20.0% Reduction	<b>Adjustment</b>	-\$3,015
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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.

<b>PAYABLE PENALTY</b>	\$12,060
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**Screening Date** 7-Sep-2012

**Docket No.** 2012-1862-AIR-E

**PCW**

**Respondent** Lhoist North America of Texas, Ltd.

Policy Revision 3 (September 2011)

**Case ID No.** 44959

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN100552454

**Media [Statute]** Air

**Enf. Coordinator** Heather Podlipny

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<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)** 44%

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

No

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

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

Satisfactory Performer

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

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for two NOVs with non-similar violations and for two agreed orders with denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 44%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 44%

Screening Date 7-Sep-2012

Docket No. 2012-1862-AIR-E

PCW

Respondent Lhoist North America of Texas, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 44959

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100552454

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), New Source Review Permit Nos. 7808 and PSDTX256M3 Special Conditions No. 1, Federal Operating Permit No. O-01122 Special Terms and Conditions No. 8, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain an emissions rate below the allowable emissions rate. Specifically, the nitrogen oxides ("NOx") emissions rate of 105 pounds per hour ("lbs/hr") based on the 30-day rolling average at the Rotary Kiln 2 [Emission Point Number ("EPN") 13KLN2STK] was exceeded on October 29, 2011 and October 30, 2011 with NOx emissions rates of 121.40 lbs/hr and 121.62 lbs/hr based on the 30-day rolling average, respectively.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Table with columns: Release (Actual, Potential), Harm (Major, Moderate, Minor), and Percent (15.0%). Includes 'OR' label.

>> Programmatic Matrix

Table with columns: Falsification, Major, Moderate, Minor, and Percent (0.0%).

Matrix Notes Based on the NOx emissions rate exceedance, approximately 792.48 lbs of NOx was released. Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1 Number of violation days 2

Table for frequency selection: daily, weekly, monthly, quarterly (marked with x), semiannual, annual, single event.

Violation Base Penalty \$3,750

One quarterly event is recommended based on the specific days the emissions rates were exceeded from 10/29/2011 to 10/30/2011.

Good Faith Efforts to Comply

10.0% Reduction

\$375

Table for Good Faith Efforts: Extraordinary, Ordinary (marked with x), N/A (marked with x).

Notes The Respondent completed corrective actions on September 19, 2012, and the NOE is dated August 31, 2012.

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$5,025

This violation Final Assessed Penalty (adjusted for limits) \$5,025

# Economic Benefit Worksheet

**Respondent** Lhoist North America of Texas, Ltd.

**Case ID No.** 44959

**Reg. Ent. Reference No.** RN100552454

**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
<small>No commas or \$</small>							

**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	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

The economic benefit for this violation is included in Violation 2.

**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 \$0

**TOTAL** \$0

Screening Date 7-Sep-2012

Docket No. 2012-1862-AIR-E

PCW

Respondent Lhoist North America of Texas, Ltd.

Policy Revision 3 (September 2011)

Case ID No. 44959

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100552454

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), New Source Review Permit Nos. 7808 and PSDTX256M3 Special Conditions No. 3, Federal Operating Permit No. O-01122 Special Terms and Conditions No. 8, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain an emissions limit below the allowable emissions limit. Specifically, the emissions rate of 5.0 pounds of NOx per ton of lime produced ("lbs/tp") was exceeded at the Rotary Kiln 2 (EPN 13KLN2STK) from October 22, 2011 through October 31, 2011, and the NOx emissions limit of 2.6 lbs/tp was exceeded at the Rotary Kiln 3 (EPN 9KLN3STK) from September 21, 2011 through October 21, 2011, respectively.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Based on the exceedance of the NOx emissions limit, 4674.15 lbs of NOx was released from Kiln 2 and 11,013.01 lbs of NOx was released from Kiln 3. Human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 2

40 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Two quarterly events are recommended for the period of non-compliance from September 21, 2011 to October 31, 2011 (one quarter per kiln).

Good Faith Efforts to Comply

10.0% Reduction

\$750

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

Notes The Respondent completed corrective actions on September 19, 2012, and the NOE is dated August 31, 2012.

Violation Subtotal \$6,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$165

Violation Final Penalty Total \$10,050

This violation Final Assessed Penalty (adjusted for limits) \$10,050

# Economic Benefit Worksheet

**Respondent** Lhoist North America of Texas, Ltd.  
**Case ID No.** 44959  
**Reg. Ent. Reference No.** RN100552454  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

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

**Delayed Costs**

Equipment	\$2,000	21-Sep-2011	19-Sep-2012	1.00	\$7	\$133	\$140
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	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$500	21-Sep-2011	19-Sep-2012	1.00	\$25	n/a	\$25
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 of the new burner management system and training. Date Required is the first date the violation was documented, the Final Date is the date of documented compliance.

**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 \$2,500

**TOTAL** \$165

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



# TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600130470, RN100552454, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600130470, Lhoist North America of Texas, Ltd. **Classification:** SATISFACTORY **Rating:** 2.70

**Regulated Entity:** RN100552454, NEW BRAUNFELS LIME PLANT **Classification:** SATISFACTORY **Rating:** 2.73

**Complexity Points:** 23 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 350 APG LANE, NEW BRAUNFELS, TX 78132-5035, COMAL COUNTY

**TCEQ Region:** REGION 13 - SAN ANTONIO

## ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER CS00200

**POLLUTION PREVENTION PLANNING** ID NUMBER P06691

**AIR NEW SOURCE PERMITS** PERMIT 7808

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX256M2

**AIR NEW SOURCE PERMITS** REGISTRATION 70768

**AIR NEW SOURCE PERMITS** REGISTRATION 82590

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX256

**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 0460130

**STORMWATER** PERMIT TXR05AS72

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 20367

**EDWARDS AQUIFER** REGISTRATION 13-06051801A

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER CS00200

**AIR OPERATING PERMITS** PERMIT 1122

**WASTEWATER** EPA ID TX0068721

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER CS00200

**AIR NEW SOURCE PERMITS** AFS NUM 4809100002

**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX256M3

**AIR NEW SOURCE PERMITS** REGISTRATION 84191

**AIR NEW SOURCE PERMITS** REGISTRATION 74103

**PETROLEUM STORAGE TANK** REGISTRATION REGISTRATION 51054

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXP490139224

**EDWARDS AQUIFER** REGISTRATION 13-06051801

**EDWARDS AQUIFER** REGISTRATION 13-06051801B

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** December 03, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 07, 2007 to September 07, 2012

## TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

**Name:** Heather Podlipny

**Phone:** (512) 239-2603

## Site and Owner/Operator History:

- 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/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

## **Components (Multimedia) for the Site Are Listed in Sections A - J**

### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 07/09/2009 ADMINORDER 2008-1122-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
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)  
Rqmt Prov:FOP No. O-01122, General Terms and Cond. OP  
Description: Failed to submit the Title V deviation report within 30 days after the end of the April 28, 2007 to October 28, 2007 reporting period. Specifically, the report was due November 27, 2007, but was not submitted until June 23, 2008.
- 2 Effective Date: 04/25/2010 ADMINORDER 2009-1635-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov:NSR Permit 7808, SC 1 PERMIT  
O-01122, GC 8 OP  
Description: Failed to comply with permitted emissions limits.

### **B. Criminal convictions:**

N/A

### **C. Chronic excessive emissions events:**

N/A

### **D. The approval dates of investigations (CEEDS Inv. Track. No.):**

Item 1	September 12, 2007	(573088)
Item 2	February 01, 2008	(616781)
Item 3	April 29, 2008	(654518)
Item 4	August 26, 2009	(762062)
Item 5	June 21, 2010	(826003)
Item 6	July 15, 2010	(828646)
Item 7	April 26, 2011	(912557)
Item 8	June 17, 2011	(932872)
Item 9	March 08, 2012	(988256)

### **E. Written notices of violations (NOV) (CEEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 03/20/2012 (988423) CN600130470  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)  
30 TAC Chapter 290, SubChapter D 290.46(f)(3)  
30 TAC Chapter 290, SubChapter D 290.46(m)(1)  
30 TAC Chapter 290, SubChapter D 290.46(n)(2)  
30 TAC Chapter 290, SubChapter F 290.110(c)(4)(A)  
30 TAC Chapter 290, SubChapter F 290.110(e)(4)  
30 TAC Chapter 290, SubChapter F 290.121(a)  
Description: Failure to maintain records of operations.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)  
Description: Failure to have a full-face self-contained breathing apparatus.
- 2 Date: 08/31/2012 (1029309) CN600130470  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.146(1)  
5C THSC Chapter 382 382.085(b)  
Description: Failure to certify at least a 12 month period.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Description: 5C THSC Chapter 382 382.085(b)  
Failure to submit the Permit Compliance Certification no later than 30 days after the end date.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THSC Chapter 382 382.085(b)  
Special Condition 24 PERMIT  
Description: Failure to notify TCEQ.

**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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>LHOIST NORTH AMERICA OF</b>	<b>§</b>	
<b>TEXAS, LTD.</b>	<b>§</b>	
<b>RN100552454</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

**AGREED ORDER**  
**DOCKET NO. 2012-1862-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Lhoist North America of Texas, Ltd. ("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 together stipulate that:

1. The Respondent owns and operates a lime manufacturing plant at 350 APG Lane in New Braunfels, Comal 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 Executive Director 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 September 5, 2012.
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 Fifteen Thousand Seventy-Five Dollars (\$15,075) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Sixty Dollars (\$12,060) of

the administrative penalty and Three Thousand Fifteen Dollars (\$3,015) 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.

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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that by September 19, 2012, the Respondent has implemented the following corrective measures at the Plant:
  - a. Implemented a new burner management system to increase the control over the air/fuel ratio and the emission intensity;
  - b. Installed a dedicated monitor at the kiln operator's station for continuous viewing of the Continuous Emissions Monitoring System ("CEMS") information for emissions concentrations and rates, and control of the kiln operation; and
  - c. Trained kiln operators and technicians on emission interaction between carbon monoxide and nitrogen oxides ("NOx") and the new computer page, as well as the CEMS analyzer.
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 maintain an emissions rate below the allowable emissions rate, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), New Source Review Permit Nos. 7808 and PSDTX256M3 Special Conditions No. 1, Federal Operating Permit No. O-01122 Special Terms and Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August

17, 2012 through August 28, 2012. Specifically, the NOx emissions rate of 105 pounds per hour ("lbs/hr") based on a 30-day rolling average at the Rotary Kiln 2 [Emission Point Number ("EPN") 13KLN2STK] was exceeded on October 29, 2011 and October 30, 2011 with NOx emissions rates of 121.40 lbs/hr and 121.62 lbs/hr based on a 30-day rolling average, respectively.

2. Failed to maintain an emissions limit below the allowable emissions limit, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), 122.143(4) and 101.20(3), New Source Review Permit Nos. 7808 and PSDTX256M3 Special Conditions No. 3, Federal Operating Permit No. O-01122 Special Terms and Conditions No. 8, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 17, 2012 through August 28, 2012. Specifically, the emissions rate of 5.0 pounds of NOx per ton of lime produced ("lbs/tp") was exceeded at the Rotary Kiln 2 (EPN 13KLN2STK) from October 22, 2011 through October 31, 2011, and the NOx emissions limit of 2.6 lbs/tp was exceeded at the Rotary Kiln 3 (EPN 9KLN3STK) from September 21, 2011 through October 21, 2011, respectively.

### 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: Lhoist North America of Texas, Ltd., Docket No. 2012-1862-AIR-E" to:

Financial Administration Division, Revenue Operations 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 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.
3. 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.

4. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
5. 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.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

Pam Jones  
For the Executive Director

2/22/13  
Date

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]  
Signature

1-9-2013  
Date

Caron Jones  
Name (Printed or Typed)  
Authorized Representative of  
Lhoist North America of Texas, Ltd.

Plant Manager  
Title

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