

Executive Summary – Enforcement Matter – Case No. 45120
Air Liquide Large Industries U.S. LP
RN100233998
Docket No. 2012-1992-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Air Liquide Large Industries US, 11400 Bay Area Boulevard, Pasadena, Harris County

Type of Operation:

Cogeneration and gas separation plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2012-2413-IWD-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: \$10,800

Amount Deferred for Expedited Settlement: \$2,160

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$4,320

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$4,320

Name of SEP: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Air Liquide Large Industries U.S. LP
RN100233998
Docket No. 2012-1992-AIR-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 12, 2012
Date(s) of NOE(s): August 31, 2012

Violation Information

Failed to maintain compliance with the nitrogen oxides ("NOx") hourly maximum allowable emissions rate for Combustion Gas Turbine/ Heat Recovery Steam Generator ("CGT/HRSG") Set Nos. 1, 2, and 4. Specifically, CGT/HRSG Set No. 1 [Emission Point No. ("EPN") CG-801] exceeded the permitted NOx emissions rate of 128.84 pounds per hour ("lbs/hr") on April 16, 2011, October 11, 2011, and January 3, 2012, resulting in approximately 53 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 2 (EPN CG-802) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 5, 2011, October 14, 2011, and November 29, 2011, resulting in approximately 17 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 4 (EPN CG-804) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 3, 2011, May 16, 2011, November 10, 2011, and December 1, 2011, resulting in approximately 44 lbs of unauthorized NOx emissions [30 TEX. ADMIN. CODE §§ 116.615(2) and 122.143(4), Federal Operating Permit No. O-1735 Special Terms and Conditions No. 5, Air Quality Standard Permit for Electric Generating Units Registration No. 75225, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures:

- a. On October 11, 2011, a thermocouple was replaced on CGT/HRSG Set No. 1 in order to prevent further emission rate exceedances due to the same cause as the October 11, 2011 exceedance;
- b. In January 2012, the cleaning procedures were changed to reduce the amount of dust and debris impeding air flow to CGT/HRSG Set Nos. 1, 2, and 4 which caused the emissions exceedances. The Respondent also cleaned the air inlet hoses of CGT/HRSG Set Nos. 1, 2, and 4 to remove dust and debris impeding the flow of inlet air in order to prevent further emission rate exceedances; and
- c. On January 26, 2012, a revision to the emissions registered under Air Quality Standard Permit for Electric Generating Units Registration No. 75225 was obtained authorizing the increased emissions from CGT/HRSG Set Nos. 1, 2, and 4.

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Technical Requirements:

The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

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: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Jason Miller, Complex Manager, Air Liquide Large Industries U.S. LP, 11400 Bay Area Boulevard, Pasadena, Texas 77507

Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1992-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Air Liquide Large Industries U.S. LP
Payable Penalty Amount:	Eight Thousand Six Hundred Forty Dollars (\$8,640)
SEP Amount:	Four Thousand Three Hundred Twenty Dollars (\$4,320)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **Houston-Galveston AERCO** for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. 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 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 Environmental Protection Agency (“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, nitrogen oxides reduction catalyst technology in combination with diesel

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

particulate filters, and other emission control technologies that are developed and approved by the EPA or the California Air Resources Board.

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

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, Respondent must contribute the SEP amount to the Third-Party Recipient. 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, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. 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

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

4. Failure to Fully Perform

If 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:

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 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

DATES	Assigned	4-Sep-2012	Screening	27-Sep-2012	EPA Due	
	PCW	29-Oct-2012				

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.	45120	No. of Violations	1
Docket No.	2012-1992-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$7,500
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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	69.0% Enhancement	Subtotals 2, 3, & 7	\$5,175

Notes: Enhancement for three agreed orders with denial of liability, one NOV with same/similar violations, and two NOVs with dissimilar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,875
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$102	*Capped at the Total EB \$ Amount	
Approx. Cost of Compliance	\$2,600		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$10,800
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
Reduces or enhances the Final Subtotal by the indicated percentage.			

Notes:

Final Penalty Amount	\$10,800
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,800
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,160
Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$8,640
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Screening Date 27-Sep-2012

Docket No. 2012-1992-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 45120

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100233998

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>)	1	5%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	3	60%
	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%

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) 69%

>> **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 three agreed orders with denial of liability, one NOV with same/similar violations, and two NOVs with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 69%

Screening Date 27-Sep-2012

Docket No. 2012-1992-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 45120

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100233998

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 116.615(2) and 122.143(4), Federal Operating Permit No. O-1735 Special Terms and Conditions No. 5, Air Quality Standard Permit for Electric Generating Units Registration No. 75225, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to maintain compliance with the nitrogen oxides ("NOx") hourly maximum allowable emissions rate for Combustion Gas Turbine/Heat Recovery Steam Generator ("CGT/HRSG") Set Nos. 1, 2, and 4. Specifically, CGT/HRSG Set No. 1 [Emission Point No. ("EPN") CG-801] exceeded the permitted NOx emissions rate of 128.84 pounds per hour ("lbs/hr") on April 16, 2011, October 11, 2011, and January 3, 2012, resulting in approximately 53 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 2 (EPN CG-802) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 5, 2011, October 14, 2011, and November 29, 2011, resulting in approximately 17 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 4 (EPN CG-804) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 3, 2011, May 16, 2011, November 10, 2011, and December 1, 2011, resulting in approximately 44 lbs of unauthorized NOx emissions.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to an insignificant amount of emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation. Less than 115 lbs of NOx were released.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3 262 Number of violation days

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

Violation Base Penalty \$7,500

Three quarterly events are recommended for the period of non-compliance from April 16, 2011 through January 3, 2012.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes The Respondent completed corrective actions by January 26, 2012, prior to the August 31, 2012 NOE.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$102

Violation Final Penalty Total \$10,800

This violation Final Assessed Penalty (adjusted for limits) \$10,800

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP

Case ID No. 45120

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
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	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	\$2,600	16-Apr-2011	26-Jan-2012	0.78	\$102	n/a	\$102
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to modify Air Quality Standard Permit for Electric Generating Units Registration No. 75225 to increase the allowable emissions from CGT/HRSC Set Nos. 1, 2, and 4. The Date Required is the first date of the emission rate exceedance and the Final Date is the date of 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

\$2,600

TOTAL

\$102

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

PENDING Compliance History Report for CN600300693, RN100233998, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator:	CN600300693, Air Liquide Large Industries U.S. LP	Classification:	SATISFACTORY	Rating:	1.91
Regulated Entity:	RN100233998, AIR LIQUIDE LARGE INDUSTRIES US	Classification:	SATISFACTORY	Rating:	6.02
Complexity Points:	21	Repeat Violator:	NO		
CH Group:	05 - Chemical Manufacturing				
Location:	11400 BAY AREA BLVD PASADENA, TX 77507-1712, HARRIS COUNTY				
TCEQ Region:	REGION 12 - HOUSTON				

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0071Q

POLLUTION PREVENTION PLANNING ID NUMBER P00956

WASTEWATER PERMIT WQ0004330000

AIR NEW SOURCE PERMITS PERMIT 9346

AIR NEW SOURCE PERMITS REGISTRATION 37485

AIR NEW SOURCE PERMITS REGISTRATION 33713

AIR NEW SOURCE PERMITS PERMIT 56212

AIR NEW SOURCE PERMITS AFS NUM 4820100073

AIR NEW SOURCE PERMITS REGISTRATION 75225

AIR NEW SOURCE PERMITS REGISTRATION 99546

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1011467

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG0071Q

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 31779

AIR OPERATING PERMITS PERMIT 1735

WASTEWATER EPA ID TX0102296

WASTEWATER EPA ID TX0102296

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0071Q

AIR NEW SOURCE PERMITS REGISTRATION 53106

AIR NEW SOURCE PERMITS REGISTRATION 11018

AIR NEW SOURCE PERMITS REGISTRATION 70423

AIR NEW SOURCE PERMITS PERMIT 73110

AIR NEW SOURCE PERMITS REGISTRATION 87052

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX612M2

WATER LICENSING LICENSE 1011467

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD096026612

Compliance History Period: September 01, 2007 to August 31, 2012
09/01/2012

Rating Year: 2012

Rating Date:

Date Compliance History Report Prepared: November 05, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 28, 2007 to September 28, 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: 05/22/2008 ADMINORDER 2007-1734-AIR-E (1660 Order-Agreed Order With Denial)
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.
- 2 Effective Date: 10/23/2008 ADMINORDER 2008-0663-AIR-E (1660 Order-Agreed Order With Denial)
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.
- 3 Effective Date: 08/31/2009 ADMINORDER 2009-0222-AIR-E (1660 Order-Agreed Order With Denial)
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)
Rqmt Prov:SC 2A PERMIT
ST&C 5 OP
Description: Failure to comply with the permitted lb/mmBtu limit of Nitrogen Oxide (NOx) for Process Steam Boiler GRPBOILER UNIT ID ST-5, ST-6, and ST-7
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)
Rqmt Prov:SC 4 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 Stationary Turbines (GRPTURB UNIT ID CG-801, CG-802, CG-803, and CG-804)
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)
Rqmt Prov:SC 8B PERMIT
ST&C 5 PERMIT
Description: Failure to comply with the permitted parts per million (ppm) limit of Carbon Monoxide (CO) for Process Heater SMRSTACK
Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.146(5)(C)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:GT&C PERMIT

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. This violation track number was combined with violation track no.339790.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	October 04, 2007	(694740)
Item 2	October 08, 2007	(570548)
Item 3	November 06, 2007	(628179)
Item 4	December 07, 2007	(628180)
Item 5	January 17, 2008	(676344)
Item 6	February 07, 2008	(676343)
Item 7	February 08, 2008	(599743)
Item 8	March 31, 2008	(694737)
Item 9	April 23, 2008	(694738)
Item 10	May 15, 2008	(694739)
Item 11	May 19, 2008	(654955)
Item 12	June 16, 2008	(716224)
Item 13	August 19, 2008	(716226)
Item 14	September 25, 2008	(716227)
Item 15	October 22, 2008	(731746)
Item 16	November 17, 2008	(731747)
Item 17	December 08, 2008	(686458)
Item 18	December 15, 2008	(731748)
Item 19	December 17, 2008	(699731)
Item 20	February 12, 2009	(726078)
Item 21	February 16, 2009	(726294)
Item 22	February 17, 2009	(755136)
Item 23	March 12, 2009	(755137)
Item 24	May 04, 2009	(740535)
Item 25	May 15, 2009	(772267)
Item 26	June 08, 2009	(816808)
Item 27	July 13, 2009	(816809)
Item 28	July 16, 2009	(748132)
Item 29	August 05, 2009	(816810)
Item 30	September 08, 2009	(816811)
Item 31	September 28, 2009	(777660)
Item 32	October 15, 2009	(816812)
Item 33	November 16, 2009	(816813)
Item 34	December 11, 2009	(816814)
Item 35	January 13, 2010	(816815)
Item 36	February 10, 2010	(816807)
Item 37	February 26, 2010	(777924)
Item 38	March 15, 2010	(835119)
Item 39	April 14, 2010	(835120)
Item 40	May 03, 2010	(796121)
Item 41	May 20, 2010	(802001)
Item 42	July 12, 2010	(827542)
Item 43	July 20, 2010	(847566)
Item 44	August 19, 2010	(868528)
Item 45	September 02, 2010	(842277)
Item 46	September 07, 2010	(841782)

	NSR 73110 Special Condition 1 PERMIT		
Description:	Failure to prevent emissions from the Steam Methane Reformer stack (SMRSTACK) from exceeding the NOx lb/hr emission limit. Category B19(g)(1)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 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) FOP O-1735, Special Terms & Conditions 5 OP NSR 73110, Special Condition 1 PERMIT		
Description:	Failure to prevent the SMR stack (SMRSTACK) from exceeding the NH3 lb/hr emission limit. Category B19(g)(1)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 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) FOP 1735, Special Terms & Conditions 5 OP NSR 73110, Special Condition 1 PERMIT		
Description:	Failure to prevent the SMR stack (SMRSTACK) from exceeding the CO lb/hr emission limit. Category B19(g)(1)		
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) FOP O-1735, Special Terms & Conditions 5 OP NSR 73110, Special Condition 1 PERMIT		
Description:	Failure to prevent the SMR Cooling Tower (SMRCT) emissions from exceeding the annual VOC permit emission limit. Category B19(g)(1)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4) 30 TAC Chapter 122, SubChapter B 122.145(2)(A) 5C THSC Chapter 382 382.085(b) FOP O-1735, General Terms & Conditions OP		
Description:	Failure to include all deviations in the November 11, 2011 semi-annual deviation report. Category B3		

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**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2012-1992-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 Air Liquide Large Industries U.S. LP ("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 cogeneration and air separation 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 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 Ten Thousand Eight Hundred Dollars (\$10,800) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand Three Hundred

Twenty Dollars (\$4,320) of the administrative penalty and Two Thousand One Hundred Sixty Dollars (\$2,160) 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. Four Thousand Three Hundred Twenty Dollars (\$4,320) 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 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 the Respondent has implemented the following corrective measures at the Plant:
 - a. On October 11, 2011, a thermocouple was replaced on Combustion Gas Turbine/Heat Recovery Steam Generator ("CGT/HRSG") Set No. 1 in order to prevent further emission rate exceedances due to the same cause as the October 11, 2011 exceedance;
 - b. In January 2012, the cleaning procedures were changed to reduce the amount of dust and debris impeding air flow to CGT/HRSG Set Nos. 1, 2, and 4 which caused the emissions exceedances. The Respondent also cleaned the air inlet hoses of CGT/HRSG Set Nos. 1, 2, and 4 to remove dust and debris impeding the flow of inlet air in order to prevent further emission rate exceedances; and
 - c. On January 26, 2012, a revision to the emissions registered under Air Quality Standard Permit for Electric Generating Units Registration No. 75225 was obtained authorizing the increased emissions from CGT/HRSG Set Nos. 1, 2, and 4.
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 failed to maintain compliance with the nitrogen oxides ("NOx") hourly maximum allowable emissions rate for CGT/HRSG Set Nos. 1, 2, and 4, in violation of 30 TEX. ADMIN. CODE §§ 116.615(2) and 122.143(4), Federal Operating Permit No. O-1735 Special Terms and Conditions No. 5, Air Quality Standard Permit for Electric Generating Units Registration No. 75225, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from July 12, 2012 through July 26, 2012. Specifically, CGT/HRSG Set No. 1 [Emission Point No. ("EPN") CG-801] exceeded the permitted NOx emissions rate of 128.84 pounds per hour ("lbs/hr") on April 16, 2011, October 11, 2011, and January 3, 2012, resulting in approximately 53 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 2 (EPN CG-802) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 5, 2011, October 14, 2011, and November 29, 2011, resulting in approximately 17 lbs of unauthorized NOx emissions. CGT/HRSG Set No. 4 (EPN CG-804) exceeded the permitted NOx emissions rate of 128.84 lbs/hr on May 3, 2011, May 16, 2011, November 10, 2011, and December 1, 2011, resulting in approximately 44 lbs of unauthorized NOx emissions.

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. 2012-1992-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand Three Hundred Twenty Dollars (\$4,320) of the assessed administrative penalty shall be offset with the condition that the Respondent implements 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. 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.
 4. 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.
 5. 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.
 6. 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.
 7. 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.
 8. 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



For the Executive Director

2/22/13

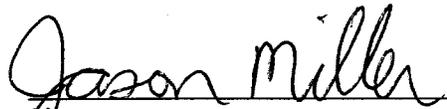
Date

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

1/4/2013

Date

Jason Miller

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

Complex Manager

Title

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: 2012-1992-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Air Liquide Large Industries U.S. LP
Payable Penalty Amount:	Eight Thousand Six Hundred Forty Dollars (\$8,640)
SEP Amount:	Four Thousand Three Hundred Twenty Dollars (\$4,320)
Type of SEP:	Pre-approved
Third-Party Recipient:	Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program
Location of SEP:	Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to **Houston-Galveston AERCO** for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. 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 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 Environmental Protection Agency (“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, nitrogen oxides reduction catalyst technology in combination with diesel

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

particulate filters, and other emission control technologies that are developed and approved by the EPA or the California Air Resources Board.

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

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, Respondent must contribute the SEP amount to the Third-Party Recipient. 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, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. 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 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:

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, 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 Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.