

**Executive Summary – Enforcement Matter – Case No. 48610
Linde Gas North America LLC
RN100217207
Docket No. 2014-0612-AIR-E**

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Linde Gas La Porte Syngas Plant, 11603B Strang Road, La Porte, Harris County

Type of Operation:

Gas production plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 31, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$12,080

Amount Deferred for Expedited Settlement: \$2,416

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,664

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

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 14, 2013

Date(s) of NOE(s): August 30, 2013

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Violation Information

1. Failed to report all instances of deviations. Specifically, the semi-annual deviation reports for the reporting periods from October 1, 2011 through March 31, 2012 and April 1, 2012 through September 30, 2012 did not include deviations for failing to comply with the volatile organic compounds ("VOC") and nitrogen oxides ("NOx") maximum allowable emissions rates and failing to operate the Acid Gas Flare with a minimum hydrogen content of 8.0% and a minimum net heating value of 200 British thermal units per standard cubic feet [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit ("FOP") No. O2290, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to maintain compliance with the maximum allowable emission rates ("MAER") for VOC and NOx. Specifically, the Respondent exceeded the MAER for NOx of 0.89 ton per year for the Cold Flare, Emissions Point Number ("EPN") SG20-3-2, during calendar year 2011, resulting in the unauthorized release of 1.51 tons of NOx. The Respondent exceeded the MAER of 0.03 pound per hour for VOC for the Cold Flare, EPN SG20-3-2, for 243 hours from October 1, 2011 to September 30, 2012, resulting in the unauthorized release of 103.23 lbs of VOC [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), FOP No. O2290, Special Terms and Conditions No. 12, New Source Review Permit No. 4773A, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

i. Implement measures and procedures designed to ensure all deviations are included in semi-annual deviation reports; and

ii. Submit written certification that demonstrates compliance with the MAER for NOx and VOC in New Source Review Permit No. 4773A for EPN SG20-3-2, or submit an administratively complete permit amendment application to increase the MAER for NOx and VOC.

b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit

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amendment application within 30 days after the date of such requests, or by any other deadline specified in writing.

c. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.i.

d. If a permit amendment application is submitted, then within 45 days, submit written certification to demonstrate that a permit amendment application was submitted.

e. If a permit amendment application is submitted, then within 360 days, submit written certification that either a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained.

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: Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3567; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Jake Leavins, Head of Houston HyCO Cluster, Linde Gas North America LLC, 9502 Bayport Boulevard, Pasadena, Texas 77507

Respondent's Attorney: Jennifer Keane, Partner, Baker Botts L.L.P., 98 San Jacinto Boulevard, Austin, Texas 78701



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	3-Sep-2013	Screening	17-Sep-2013	EPA Due	27-May-2014
	PCW	4-Sep-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	Linde Gas North America LLC				
Reg. Ent. Ref. No.	RN100217207				
Facility/Site Region	12-Houston	Major/Minor Source	Major		

CASE INFORMATION

Enf./Case ID No.	48610	No. of Violations	2
Docket No.	2014-0612-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Raime Hayes-Falero
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$8,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **51.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,080**

Notes: Enhancement for two NOV's with same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts	\$1,184	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$7,000	

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,080**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,080**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,080**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,416**

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 **\$9,664**

Screening Date 17-Sep-2013

Docket No. 2014-0612-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 3 (September 2011)

Case ID No. 48610

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100217207

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

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>)	2	10%
	Other written NOVs	1	2%
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 judgments 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>)	1	-1%
	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) 51%

>> **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 same/similar violations, one NOV with dissimilar violations, and two orders with denial of liability. Reduction for one Notice of Intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 51%

>> **Final Compliance History Adjustment**

Final Adjustment Percentage *capped at 100% 51%

Screening Date 17-Sep-2013
Respondent Linde Gas North America LLC
Case ID No. 48610
Reg. Ent. Reference No. RN100217207
Media [Statute] Air
Enf. Coordinator Raime Hayes-Falero

Docket No. 2014-0612-AIR-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit ("FOP") No. O2290, General Terms and Conditions, and Tex. Health & Safety Code § 382.085(b)

Violation Description
 Failed to report all instances of deviations. Specifically, the semi-annual deviation reports for the reporting periods from October 1, 2011 through March 31, 2012 and April 1, 2012 through September 30, 2012 did not include deviations for failing to comply with the volatile organic compounds ("VOC") and nitrogen oxides ("NOx") maximum allowable emissions rates and failing to operate the Acid Gas Flare with a minimum hydrogen content of 8.0% and a minimum net heating value of 200 British thermal units per standard cubic feet.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="1.0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

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="checkbox"/>

Violation Base Penalty

Good Faith Efforts to Comply

Reduction

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

Notes

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 Linde Gas North America LLC
Case ID No. 48610
Reg. Ent. Reference No. RN100217207
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	\$2,000	30-Apr-2012	18-Apr-2015	2.97	\$297	n/a	\$297
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 implement measures and procedures designed to ensure all deviations are included in semi-annual deviation reports. The Date Required is the due date for the first semi-annual report. The Final Date is estimated 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

\$2,000

TOTAL

\$297

Screening Date 28-Apr-2014
Respondent Linde Gas North America LLC
Case ID No. 48610
Reg. Ent. Reference No. RN100217207
Media [Statute] Air
Enf. Coordinator Raime Hayes-Falero
Violation Number 2

Docket No. 2014-0612-AIR-E

PCW

Policy Revision 3 (September 2011)
 PCW Revision August 3, 2011

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), FOP No. O2290, Special Terms and Conditions No. 12, New Source Review Permit No. 4773A, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain compliance with the maximum allowable emission rates ("MAER") for VOC and NOx. Specifically, the Respondent exceeded the MAER for NOx of 0.89 ton per year for the Cold Flare, Emissions Point Number ("EPN") SG20-3-2, during calendar year 2011, resulting in the unauthorized release of 1.51 tons of NOx. The Respondent exceeded the MAER of 0.03 pound per hour for VOC for the Cold Flare, EPN SG20-3-2, for 243 hours from October 1, 2011 to September 30, 2012, resulting in the unauthorized release of 103.23 lbs of VOC.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	15.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 2 365 Number of violation days

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

Violation Base Penalty \$7,500

Two semiannual events are recommended from the first date of noncompliance on October 1, 2011 to September 30, 2012.

Good Faith Efforts to Comply

0.0% Reduction \$0

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

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$887

Statutory Limit Test

Violation Final Penalty Total \$11,325

This violation Final Assessed Penalty (adjusted for limits) \$11,325

Screening Date 17-Sep-2013

Docket No. 2014-0612-AIR-E

PCW

Respondent Linde Gas North America LLC

Policy Revision 3 (September 2011)

Case ID No. 48610

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100217207

Media [Statute] Air

Enf. Coordinator Raime Hayes-Falero

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), FOP No. O2290, Special Terms and Conditions No. 12, New Source Review Permit No. 4773A, Special Conditions No. 1, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain compliance with the maximum allowable emission rates ("MAER") for VOC and NOx. Specifically, the Respondent exceeded the MAER for NOx of 0.89 ton per year for the Cold Flare, Emissions Point Number ("EPN") SG20-3-2, during calendar year 2011, resulting in the unauthorized release of 1.51 tons of NOx. The Respondent exceeded the MAER of 0.03 pound per hour for VOC for the Cold Flare, EPN SG20-3-2, for 243 hours from October 1, 2011 to September 30, 2012, resulting in the unauthorized release of 103.23 lbs of VOC.

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

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 \$21,250

\$3,750

Violation Events

Number of Violation Events 2

365 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	x
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

Two semiannual events are recommended from the first date of noncompliance on October 1, 2011 to September 30, 2012.

Good Faith Efforts to Comply

0.0%

Reduction \$0

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

Notes

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

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$887

Violation Final Penalty Total \$11,325

This violation Final Assessed Penalty (adjusted for limits) \$11,325

Economic Benefit Worksheet

Respondent Linde Gas North America LLC
Case ID No. 48610
Reg. Ent. Reference No. RN100217207
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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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				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	1-Oct-2011	18-Apr-2015	3.55	\$887	n/a	\$887

Notes for DELAYED costs

Estimated cost to submit an administratively complete permit amendment application to increase NOx and VOC emission rates or implement measures to comply with permitted emission rates for NOx and VOC. The Date Required is the date the exceedance began. The Final Date is the estimated 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

\$5,000

TOTAL

\$887



Compliance History Report

PUBLISHED Compliance History Report for CN603335019, RN100217207, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN603335019, Linde Gas North America LLC	Classification: SATISFACTORY	Rating: 6.97
Regulated Entity:	RN100217207, LINDE GAS LA PORTE SYNGAS PLANT	Classification: SATISFACTORY	Rating: 5.37
Complexity Points:	20	Repeat Violator: NO	
CH Group:	05 - Chemical Manufacturing		
Location:	11603B STRANG RD LA PORTE, TX 77571-9749, HARRIS COUNTY		
TCEQ Region:	REGION 12 - HOUSTON		

ID Number(s):		
AIR OPERATING PERMITS ACCOUNT NUMBER HX2334A		AIR OPERATING PERMITS PERMIT 2290
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HX2334A		AIR NEW SOURCE PERMITS AFS NUM 4820101522
AIR NEW SOURCE PERMITS PERMIT 4773A		AIR NEW SOURCE PERMITS REGISTRATION 109816
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1012682		STORMWATER PERMIT TXR05AY90
WATER LICENSING LICENSE 1012682		WASTEWATER EPA ID TX0118389
WASTEWATER PERMIT WQ0004092000		PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 77167
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HX2334A		INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXR000037499
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 86545		POLLUTION PREVENTION PLANNING ID NUMBER P06875

Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	June 30, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	June 30, 2009 to June 30, 2014				

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Raime Hayes-Falero **Phone:** (713) 767-3567

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: 05/08/2011	ADMINORDER 2010-1187-AIR-E (1660 Order-Agreed Order With Denial)
	Classification: Moderate	
	Citation: 30 TAC Chapter 115, SubChapter H 115.725(d)(1)(C)	
	30 TAC Chapter 116, SubChapter B 116.115(c)	
	5C THSC Chapter 382 382.085(b)	
	Rqmt Prov: SC 4(D) PERMIT	
	Description: Failed to continuously monitor the flow rate of the gas stream for the High Pressure Flare (EPN SG21-1-1) and the Cold Flare (SG20-3-2) in highly reactive volatile organic compound ("HRVOC") service since January 31, 2007.	

Specifically, the flow rate measuring device was found to not accurately measure in the low end of its range due to program and hardware issues.

- 2 Effective Date: 07/31/2011 ADMINORDER 2010-2061-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
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 conducted on November 8, 2010.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Rqmt Prov: Effluent Reporting Requirements PERMIT
Description: Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the semiannual biomonitoring results for the monitoring period ending December 31, 2009.
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.1
Rqmt Prov: TPDES Permit No. WQ0004092000 PERMIT
Description: Failed to submit a complete discharge monitoring report ("DMR") for the monitoring period ending December 21, 2009

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	August 19, 2009	(819332)
Item 2	September 21, 2009	(819333)
Item 3	November 20, 2009	(819335)
Item 4	December 13, 2009	(780293)
Item 5	December 21, 2009	(819336)
Item 6	May 18, 2010	(836031)
Item 7	October 19, 2010	(883289)
Item 8	December 17, 2010	(898070)
Item 9	February 18, 2011	(910853)
Item 10	March 18, 2011	(918117)
Item 11	April 20, 2011	(930414)
Item 12	June 17, 2011	(947237)
Item 13	July 01, 2011	(936480)
Item 14	July 20, 2011	(954498)
Item 15	September 16, 2011	(967168)
Item 16	October 17, 2011	(973135)
Item 17	December 09, 2011	(970727)
Item 18	January 16, 2012	(992462)
Item 19	January 23, 2012	(981236)
Item 20	May 20, 2012	(1018260)
Item 21	June 05, 2012	(1003247)
Item 22	August 15, 2012	(1039866)
Item 23	September 17, 2012	(1048812)
Item 24	October 18, 2012	(1069673)
Item 25	November 16, 2012	(1069674)
Item 26	December 17, 2012	(1069675)
Item 27	January 17, 2013	(1082914)
Item 28	February 15, 2013	(1082913)
Item 29	March 15, 2013	(1091202)
Item 30	April 16, 2013	(1097538)
Item 31	May 20, 2013	(1108564)

Item 32	June 19, 2013	(1112137)
Item 33	August 20, 2013	(1126845)
Item 34	October 01, 2013	(1131377)
Item 35	October 18, 2013	(1137126)
Item 36	November 19, 2013	(1142546)
Item 37	December 18, 2013	(1148969)
Item 38	February 06, 2014	(1155060)
Item 39	February 18, 2014	(1162368)
Item 40	March 19, 2014	(1168994)

E. Written notices of violations (NOV) (CCEDS 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: 08/30/2013 (1050497) CN603335019
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)
5C THSC Chapter 382 382.085(b)
Special Condition 4B PERMIT
Special Terms & Conditions 12 OP
Description: Failure to maintain a constant pilot flame on flare (SG21-1-1). [C4]
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)
5C THSC Chapter 382 382.085(b)
Special Condition 19A PERMIT
Special Terms & Conditions 12 OP
Description: Failure to maintain the flare (SG21-1-1 & SG20-3-2) gas above 200 Btu/scf or the H2 above 8%. [B14]
- 2 Date: 02/24/2014 (1134580) CN603335019
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 111, SubChapter B 111.205(a)
5C THSC Chapter 382 382.085(b)
Description: Failure to submit fire training notification for TCEQ. (Category C3 violation)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
5C THSC Chapter 382 382.085(b)
General Terms and Conditions PERMIT
Description: Failure to report deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the permit. (Category C3 violation)
- 3 Date: 03/31/2014 (1176178) CN603335019
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

F. Environmental audits:

Notice of Intent Date: 08/05/2013 (1115895)
No DOV Associated

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	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
LINDE GAS NORTH AMERICA	§	
LLC	§	
RN100217207	§	ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2014-0612-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 Linde Gas North America LLC ("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, represented by Ms. Jennifer Keane of the law firm of Baker Botts, together stipulate that:

1. The Respondent owns and operates a gas production plant located at 11603B Strang Road in La Porte, 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 4, 2013.
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 Twelve Thousand Eighty Dollars (\$12,080) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Nine Thousand Six Hundred Sixty-Four Dollars (\$9,664) of the administrative penalty and Two Thousand Four Hundred Sixteen Dollars (\$2,416) 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 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.
10. 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.
11. 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 report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), Federal Operating Permit ("FOP") No. O2290, General Terms and Conditions, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 14, 2013. Specifically, the semi-annual deviation reports for the reporting periods from October 1, 2011 through March 31, 2012 and April 1, 2012 through September 30, 2012 did not include deviations for failing to comply with the volatile organic compounds ("VOC") and nitrogen oxides ("NOx") maximum allowable emissions rates and failing to operate the Acid Gas Flare with a minimum hydrogen content of 8.0% and a minimum net heating value of 200 British thermal units per standard cubic feet.
2. Failed to maintain compliance with the maximum allowable emission rates ("MAER") for VOC and NOx, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(F), 116.115(c), and 122.143(4), FOP No. O2290, Special Terms and Conditions No. 12, New Source Review Permit No. 4773A, Special Conditions No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on January 14, 2013. Specifically, the Respondent exceeded the MAER for NOx of 0.89 ton per year for the Cold Flare, Emissions Point Number ("EPN") SG20-3-2, during calendar year 2011, resulting in the unauthorized release of 1.51 tons of NOx. The Respondent exceeded the

MAER of 0.03 pound per hour for VOC for the Cold Flare, EPN SG20-3-2, for 243 hours from October 1, 2011 to September 30, 2012, resulting in the unauthorized release of 103.23 lbs of VOC.

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: Linde Gas North America LLC, Docket No. 2014-0612-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. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order;
 - i. Implement measures and procedures designed to ensure all deviations are included in semi-annual deviation reports; and
 - ii. Submit written certification as described in Ordering Provision No. 2.f. below, that demonstrates compliance with the MAER for NO_x and VOC in New Source Review Permit No. 4773A for EPN SG20-3-2, or submit an administratively complete permit amendment application to increase the MAER for NO_x and VOC, in accordance with 30 TEX. ADMIN. CODE § 116.111, to:

Air Permits Division, MC 163
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- b. If a permit amendment application is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment application within 30 days after the date of such requests, or by any other deadline specified in writing;

- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below to demonstrate compliance with Ordering Provision No. 2.a.i.;
- d. If a permit amendment application is submitted, then within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below to demonstrate that a permit amendment application was submitted;
- e. If a permit amendment application is submitted, then within 360 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below that either a permit amendment has been obtained or that operation has ceased until such time that appropriate authorization is obtained; and
- f. The certifications required by Ordering Provision Nos. 2.a.ii., 2.c., 2.d., and 2.e. shall be accompanied by detailed supporting documentation including photographs, receipts, and/or other records, and shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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

- 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

Pam Navier
For the Executive Director

2/17/15
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.

Jake Leavin
Signature

9/30/2014
Date

Jake Leavin
Name (Printed or typed)
Authorized Representative of
Linde Gas North America LLC

Head of Houston H₂O Cluster
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.