

Executive Summary – Enforcement Matter – Case No. 61634
Nutrien US LLC f/k/a Agrium U.S. Inc.
RN101865715
Docket No. 2021-1562-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Nutrien US, 9201 Farm Road 1551, Borger, Hutchinson County

Type of Operation:

Fertilizer manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: Yes, Docket No. 2022-0389-WDW-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 22, 2023

Comments Received: No

Penalty Information

Total Penalty Assessed: \$50,938

Total Paid to General Revenue: \$50,938

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 28, 2021 and December 30, 2021

Date(s) of NOE(s): November 19, 2021 and January 7, 2022

Executive Summary – Enforcement Matter – Case No. 61634
Nutrien US LLC f/k/a Agrium U.S. Inc.
RN101865715
Docket No. 2021-1562-AIR-E

Violation Information

1. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 362490 was due by July 15, 2019 at 12:29 p.m., but was not submitted until July 15, 2021 at 3:34 p.m. [30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), Federal Operating Permit ("FOP") No. O1689, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 13,921.70 pounds ("lbs") of carbon monoxide ("CO") from the Shift Converters, Emissions Point Number ("EPN") SP-73, during an emissions event (Incident No. 362490) that occurred on July 14, 2021 and lasted 22 hours and 56 minutes. The emissions event occurred due to a mechanical failure of the internal rotor on 101-J during a startup activity following an unplanned shutdown, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 19778 and PSDTX1326, Special Conditions ("SC") No. 1, FOP No. O1689, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 365621 was due by September 9, 2021, but was not submitted until September 14, 2021 [30 TEX. ADMIN. CODE §§ 101.201(c) and 122.143(4), FOP No. O1689, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b)].
4. Failed to prevent unauthorized emissions. Specifically, the Respondent released 16,641.00 lbs of CO from the Shift Converters, EPN SP-73, during an emissions event (Incident No. 365621) that began on August 25, 2021 and lasted 10 hours and eight minutes. The emissions event occurred when an intercooler developed a leak that caused abnormal scaling in the lines feeding the Flow Indicating Controller FIC0004 and led to the mechanical failure of Flow Indicating Controller FIC0004, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c) and 122.143(4), NSR Permit Nos. 19778 and PSDTX1326, SC No. 1, FOP No. O1689, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

Executive Summary – Enforcement Matter – Case No. 61634
Nutrien US LLC f/k/a Agrium U.S. Inc.
RN101865715
Docket No. 2021-1562-AIR-E

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent implemented the following corrective measures:

- a. On July 15, 2021, submitted the initial notification for Incident No. 362490; and
- b. On September 14, 2021, submitted the final record for Incident No. 365621.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner;
 - ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 362490; and
 - iii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365621.
- b. Within 45 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Danielle Porras, Enforcement Division, Enforcement Team 2, MC R-12, (713) 767-3682; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: Adam McGhee, Environmental Supervisor, Nutrien US LLC, 9201 Farm Road 1551, Borger, Texas 79007
Bobby E. Franklin, General Manager, Nutrien US LLC, 9201 Farm Road 1551, Borger, Texas 79007

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	22-Nov-2021	Screening	2-Dec-2021	EPA Due	
	PCW	7-Jul-2023				

RESPONDENT/FACILITY INFORMATION	
Respondent	Nutrien US LLC f/k/a Agrium U.S. Inc.
Reg. Ent. Ref. No.	RN101865715
Facility/Site Region	1-Amarillo
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	61634	No. of Violations	4
Docket No.	2021-1562-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$25,500
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	100.0%	Adjustment	Subtotals 2, 3, & 7	\$25,500
---------------------------	--------	------------	--------------------------------	----------

Notes: Enhancement for four NOVs with same/similar violations, four orders containing a denial of liability, and for repeat violator. Reduction for one notice of intent to conduct an audit and for one disclosure of violations.

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	-\$62
--	-------------------	-------

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

Total EB Amounts: \$2,772
 Estimated Cost of Compliance: \$22,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$50,938
-----------------------------	-----------------------	----------

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$50,938
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$50,938
-----------------------------------	-------------------------------	----------

DEFERRAL	0.0%	Reduction	Adjustment	\$0
-----------------	------	-----------	-------------------	-----

Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral for orders in which the Respondent has two or more prior administrative penalty orders as set out in Tex. Water Code § 7.105(b)(2), (b)(4), and (b)(6).

PAYABLE PENALTY	\$50,938
------------------------	----------

Screening Date 2-Dec-2021

Docket No. 2021-1562-AIR-E

PCW

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61634

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101865715

Media Air

Enf. Coordinator Danielle Porras

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	4	80%
	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>)	1	-2%
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) 97%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for four NOVs with same/similar violations, four orders containing a denial of liability, and for repeat violator. Reduction for one notice of intent to conduct an audit and for one disclosure of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 122%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 2-Dec-2021

Docket No. 2021-1562-AIR-E

PCW

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.

Policy Revision 5 (January 28, 2021)

Case ID No. 61634

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN101865715

Media Air

Enf. Coordinator Danielle Porras

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 101.201(a)(1)(B) and 122.143(4), Federal Operating Permit ("FOP") No. O1689, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 2.F, and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 362490 was due by July 15, 2019 at 12:29 p.m., but was not submitted until July 15, 2021 at 3:34 p.m.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirements were not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

Notes

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

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$197

Violation Final Penalty Total \$500

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

Economic Benefit Worksheet

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.
Case ID No. 61634
Reg. Ent. Reference No. RN101865715
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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	\$1,500	15-Jul-2021	1-Mar-2024	2.63	\$197	n/a	\$197
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	15-Jul-2021	15-Jul-2021	0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to submit the initial notification for Incident No. 362490 (\$250) and to implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner (\$1,500). The Dates Required are the date the initial notification was due and the Final Dates are the date the initial notification was submitted and the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$1,750

TOTAL \$197

Screening Date 2-Dec-2021 **Docket No.** 2021-1562-AIR-E **PCW**
Respondent Nutrien US LLC f/k/a Agrium U.S. Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61634 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101865715
Media Air
Enf. Coordinator Danielle Porras

Violation Number 2
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 19778 and PSDTX1326, Special Conditions ("SC") No. 1, FOP No. O1689, GTC and STC No. 10, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 13,921.70 pounds of carbon monoxide ("CO") from the Shift Converters, Emissions Point Number ("EPN") SP-73, during an emissions event (Incident No. 362490) that occurred on July 14, 2021 and lasted 22 hours and 56 minutes. The emissions event occurred due to a mechanical failure of the internal rotor on 101-J during a startup activity following an unplanned shutdown, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		50.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$12,500

\$12,500

Violation Events

Number of Violation Events 1 1 Number of violation days

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

One weekly event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$12,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1,316 **Violation Final Penalty Total** \$25,000

This violation Final Assessed Penalty (adjusted for limits) \$25,000

Economic Benefit Worksheet

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.
Case ID No. 61634
Reg. Ent. Reference No. RN101865715
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$10,000	14-Jul-2021	1-Mar-2024	2.63	\$1,316	n/a	\$1,316

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 362490. The Date Required is the date the emissions event occurred and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$1,316

Screening Date 2-Dec-2021 **Docket No.** 2021-1562-AIR-E **PCW**
Respondent Nutrien US LLC f/k/a Agrium U.S. Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61634 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101865715
Media Air
Enf. Coordinator Danielle Porras

Violation Number 3
Rule Cite(s) 30 Tex. Admin. Code §§ 101.201(c) and 122.143(4), FOP No. O1689, GTC and STC No. 2.F, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event. Specifically, the final record for Incident No. 365621 was due by September 9, 2021, but was not submitted until September 14, 2021.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual				Percent 0.0%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
				x	Percent 1.0%
Matrix Notes	Less than 30% of the rule requirements were not met.				

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1 5 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply 25.0% Reduction \$62

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent completed the corrective measures on September 14, 2021, prior to the Notice of Enforcement dated January 7, 2022.

Violation Subtotal \$188

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$438

This violation Final Assessed Penalty (adjusted for limits) \$438

Economic Benefit Worksheet

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.
Case ID No. 61634
Reg. Ent. Reference No. RN101865715
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$250	9-Sep-2021	14-Sep-2021	0.01	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit the final record for Incident No. 365621. The Date Required is the date the final record was due and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$0

Screening Date 2-Dec-2021 **Docket No.** 2021-1562-AIR-E **PCW**
Respondent Nutrien US LLC f/k/a Agrium U.S. Inc. *Policy Revision 5 (January 28, 2021)*
Case ID No. 61634 *PCW Revision February 11, 2021*
Reg. Ent. Reference No. RN101865715
Media Air
Enf. Coordinator Danielle Porras

Violation Number 4
Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(3), 116.115(c), and 122.143(4), NSR Permit Nos. 19778 and PSDTX1326, SC No. 1, FOP No. O1689, GTC and STC No. 10, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to prevent unauthorized emissions. Specifically, the Respondent released 16,641.00 lbs of CO from the Shift Converters, EPN SP-73, during an emissions event (Incident No. 365621) that began on August 25, 2021 and lasted 10 hours and eight minutes. The emissions event occurred when an intercooler developed a leak that caused abnormal scaling in the lines feeding the Flow Indicating Controller FIC0004 and led to the mechanical failure of Flow Indicating Controller FIC0004, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		50.0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0.0%

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

Adjustment \$12,500

\$12,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
weekly	x
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$12,500

One weekly event is recommended.

Good Faith Efforts to Comply 0.0% Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$12,500

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$1,259 **Violation Final Penalty Total** \$25,000

This violation Final Assessed Penalty (adjusted for limits) \$25,000

Economic Benefit Worksheet

Respondent Nutrien US LLC f/k/a Agrium U.S. Inc.
Case ID No. 61634
Reg. Ent. Reference No. RN101865715
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
------------------	-----------	---------------	------------	-----	----------------	-------------	-----------

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)	\$10,000	25-Aug-2021	1-Mar-2024	2.52	\$1,259	n/a	\$1,259

Notes for DELAYED costs
 Estimated cost to implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365621. The Date Required is the date the emissions event began and the Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$1,259



Compliance History Report

Compliance History Report for CN600128227, RN101865715, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

Customer, Respondent, or Owner/Operator: CN600128227, Nutrien US LLC f/k/a Agrium U.S. Inc. **Classification:** SATISFACTORY **Rating:** 42.36
Regulated Entity: RN101865715, NUTRIEN US **Classification:** SATISFACTORY **Rating:** 42.36
Complexity Points: 26 **Repeat Violator:** YES
CH Group: 05 - Chemical Manufacturing
Location: 9201 FARM ROAD 1551, BORGER, HUTCHINSON COUNTY, TEXAS
TCEQ Region: REGION 01 - AMARILLO

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HW0004D
AIR NEW SOURCE PERMITS PERMIT 19778
AIR NEW SOURCE PERMITS ACCOUNT NUMBER HW0004D
AIR NEW SOURCE PERMITS AFS NUM 4823300008
AIR NEW SOURCE PERMITS REGISTRATION 97017
AIR NEW SOURCE PERMITS EPA PERMIT GHGSPDXTX155
AIR NEW SOURCE PERMITS REGISTRATION 145045
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30770
UNDERGROUND INJECTION CONTROL PERMIT WDW351
UNDERGROUND INJECTION CONTROL PERMIT WDW439
WATER QUALITY NON PERMITTED ID NUMBER R01ST0017
AIR EMISSIONS INVENTORY ACCOUNT NUMBER HW0004D
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD081715302
INDUSTRIAL AND HAZARDOUS WASTE OTS REQUEST 42910
TAX RELIEF ID NUMBER 16588
TAX RELIEF ID NUMBER 20875
TAX RELIEF ID NUMBER 20873
TAX RELIEF ID NUMBER 20872
TAX RELIEF ID NUMBER 20876
TAX RELIEF ID NUMBER 22662
TAX RELIEF ID NUMBER 22663
TAX RELIEF ID NUMBER 22658
TAX RELIEF ID NUMBER 25746

AIR OPERATING PERMITS PERMIT 1689
AIR NEW SOURCE PERMITS REGISTRATION 47469
AIR NEW SOURCE PERMITS EPA PERMIT PSDTX1326
AIR NEW SOURCE PERMITS REGISTRATION 92227
AIR NEW SOURCE PERMITS REGISTRATION 110548
AIR NEW SOURCE PERMITS REGISTRATION 105836
AIR NEW SOURCE PERMITS REGISTRATION 172182
UNDERGROUND INJECTION CONTROL PERMIT WDW274
UNDERGROUND INJECTION CONTROL PERMIT WDW115
STORMWATER PERMIT TXR05EY07
WASTEWATER EPA ID TX0009105
POLLUTION PREVENTION PLANNING ID NUMBER P00145
INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30770
INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXP490356021
TAX RELIEF ID NUMBER 19045
TAX RELIEF ID NUMBER 20871
TAX RELIEF ID NUMBER 20877
TAX RELIEF ID NUMBER 20874
TAX RELIEF ID NUMBER 22661
TAX RELIEF ID NUMBER 22664
TAX RELIEF ID NUMBER 22660
TAX RELIEF ID NUMBER 22659

Compliance History Period: September 01, 2017 to August 31, 2022 **Rating Year:** 2022 **Rating Date:** 09/01/2022

Date Compliance History Report Prepared: July 03, 2023

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 03, 2018 to July 03, 2023

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

Name: Danielle Porras

Phone: (713) 767-3682

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

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

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

- 1 Effective Date: 03/05/2020 ADMINORDER 2019-0359-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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: GTC OP
SC No. 1 OP
STC No. 8 OP
Description: Failure to prevent unauthorized emissions.

- 2 Effective Date: 04/27/2020 ADMINORDER 2018-0910-MLM-E (1660 Order-Agreed Order With Denial)
Classification: Major
Citation: 30 TAC Chapter 331, SubChapter D 331.63(h)
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1
Rqmt Prov: UIC Permit No. WDW115, Provision No. V.C OP
Description: Failure to maintain chemical or physical characteristics of the injected fluids within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the Plant.
Classification: Moderate
Citation: 30 TAC Chapter 331, SubChapter D 331.63(h)
40 CFR Chapter 270, SubChapter I, PT 270, SubPT A 270.1
Rqmt Prov: UIC Permit No. WDW274, Provision No. V.C OP
Description: Failure to maintain chemical or physical characteristics of the injected fluids within specified permit limits for the protection of the injection well, associated facilities, and injection zone and to ensure proper operation of the Plant.
Classification: Major
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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)
Rqmt Prov: 1 PERMIT
8 OP
Description: Failure to comply with the MAERs.

- 3 Effective Date: 04/20/2021 ADMINORDER 2019-1463-AIR-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Rqmt Prov: FOP No. O1689 GTC and STC No. 2.F OP
Description: Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 245142 was due by October 6, 2016 at 9:28 a.m., but was not submitted until October 6, 2016 at 3:12 p.m.
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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: FOP No. O1689, GTC and STC No. 8 OP
MAERT, Special Condition No. 26 PERMIT
NSR Permit 19778 and PSDTX1326, SC No. 1 PERMIT
Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 15,709.5 pounds ("lbs") of CO from the Shift Converters, EPN SP-73, during an emissions event (Incident No. 245142) that began on October 5, 2016 and lasted 28 hours and nine minutes. The Respondent did not provide a cause for the emissions event that resulted in the release to the atmosphere
Classification: Moderate
Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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: FOP No. O1689, GTC and STC No. 8 OP

MAERT - Appendix 2 PERMIT

NSR Nos. 19778 and PSDTX1326, SC No. 1 PERMIT

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 285.18 lbs of ammonia as fugitive emissions, during an emissions event (Incident No. 254035) that began on March 9, 2017 and lasted one hour and 30 minutes. The emissions event occurred due to an equipment malfunction in the hydrogen unit, resulting in the release to the atmosphere.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.146(2)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Special Condition No. 12 OP

Description: Failed to submit a PCC within 30 days of any certification period. Specifically, the PCC for the January 1, 2018 through December 31, 2018 certification period was due by January 30, 2019, but was not submitted until October 4, 2019.

Classification: Moderate

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)

Rqmt Prov: General Terms and Conditions OP

Description: Failed to report all instances of deviations. Specifically, the deviation report for the January 1, 2019 through June 30, 2019 reporting period did not include the NOE dated March 1, 2019.

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)

Rqmt Prov: FOP No. O1689, GTC and STC No. 8 OP

NSR Nos. 19778 and PSDTX1326, SC No. 1 PERMIT

Special Condition No. 1 PERMIT

Special Condition No. 6 OP

Description: Failed to comply with the MAER. Specifically, the Respondent exceeded the CO MAER of 60.16 tons per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from June 2016 through May 2017 for the Shift Converters, EPN SP-73, resulting in 37.92 tons of unauthorized CO emissions.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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)

Rqmt Prov: FOP No. O1689, GTC and STC No. 8 OP

NSR Nos. 19778 and PSDTX1326, SC No. 1 PERMIT

Description: Failed to comply with the MAER. Specifically, the Respondent exceeded the NOx MAER of 5.00 tpy based on a 12-month rolling period for the 12-month periods ending from June 2016 through May 2017 for the Reformer Maintenance, EPN 2-MAINT, resulting in 3.13 tons of unauthorized NOx emissions.

4 Effective Date: 11/29/2021 ADMINORDER 2020-1379-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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)

Rqmt Prov: General Terms and Conditions OP

NSR Permit 19778 PERMIT

SOP 1689 PERMIT

Special Conditions No. 1 PERMIT

Description: Failed to comply with the MAER. Specifically, the Respondent exceeded the particulate matter ("PM") MAER of 0.3 ton per year ("tpy") based on a 12-month rolling period for the 12-month periods ending from January 2018 through June 2020 for the Cooling Tower-Urea, EPN COOL-2, resulting in 4.08 tons of unauthorized PM emissions.

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)

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)

Rqmt Prov: General Terms and Conditions OP
NSR Permit 19778 PERMIT
SC No. 1 PERMIT
STC No. 10 OP

Description: Failed to comply with the MAER. Specifically, the Respondent exceeded the ammonia ("NH3") MAER of 7.24 tpy based on a 12-month rolling period for the 12-month periods ending from July 2019 through June 2020 for the Cooling Tower-Ammonia, EPN COOL-1, resulting in 2.62 tons of unauthorized NH3 emissions.

Classification: Major

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
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)

Rqmt Prov: GTC OP
NSR Permit 19778 PERMIT
SC No. 1 PERMIT
SOP 1689 OP

Description: Failed to comply with the MAERs. Specifically, the Respondent exceeded the CO MAER of 0.02 tpy based on a 12-month rolling period and exceeded the NOx MAER of 0.03 tpy based on a 12-month rolling period for the 12-month periods ending from January 2019 through December 2019 for the Start-Up Heater, EPN H-5, resulting in 0.01 ton of unauthorized CO emissions and 0.01 ton of unauthorized NOx emissions.

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 01, 2018	(1505201)
Item 2	August 07, 2018	(1506459)
Item 3	September 27, 2018	(1513361)
Item 4	October 15, 2018	(1519948)
Item 5	October 24, 2018	(1523204)
Item 6	November 14, 2018	(1526476)
Item 7	January 11, 2019	(1513157)
Item 8	January 28, 2019	(1540199)
Item 9	February 07, 2019	(1541161)
Item 10	February 19, 2019	(1549263)
Item 11	July 19, 2019	(1579142)
Item 12	September 26, 2019	(1597201)
Item 13	December 16, 2019	(1616734)
Item 14	February 03, 2020	(1624307)
Item 15	March 23, 2020	(1625597)
Item 16	May 15, 2020	(1646964)
Item 17	June 26, 2020	(1658477)
Item 18	September 24, 2020	(1676772)
Item 19	October 27, 2020	(1650905)
Item 20	October 28, 2020	(1684817)
Item 21	November 09, 2020	(1684818)
Item 22	December 14, 2020	(1684819)
Item 23	December 23, 2020	(1697913)
Item 24	February 01, 2021	(1701159)
Item 25	February 09, 2021	(1698170)
Item 26	March 26, 2021	(1702594)
Item 27	July 27, 2021	(1746594)

Item 28	August 19, 2021	(1746437)
Item 29	September 28, 2021	(1763494)
Item 30	October 29, 2021	(1764653)
Item 31	November 01, 2021	(1771264)
Item 32	November 03, 2021	(1771499)
Item 33	November 23, 2021	(1774619)
Item 34	December 09, 2021	(1762073)
Item 35	January 27, 2022	(1781265)
Item 36	March 07, 2022	(1795257)
Item 37	October 28, 2022	(1834864)
Item 38	November 14, 2022	(1855142)
Item 40	February 06, 2023	(1874331)
Item 41	April 21, 2023	(1902051)
Item 42	May 05, 2023	(1897372)

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: 07/13/2022 (1825523)
 - Self Report? NO Classification: Moderate
 - Citation: 1689 OP
19778 PERMIT
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)
 - Description: Failure to comply with differential pressure requirements.
 - Self Report? NO Classification: Moderate
 - Citation: 1689 OP
19778 PERMIT
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)
 - Description: Failure to comply with recirculation rate requirements.
 - Self Report? NO Classification: Major
 - Citation: 1689 OP
19778 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
 - Description: MAERT violation.
 - Self Report? NO Classification: Moderate
 - Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)
5C THSC Chapter 382 382.085(b)
 - Description: Failure to include all instances of deviations in deviation reports.
 - Self Report? NO Classification: Major
 - Citation: 1689 OP
19778 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
 - Description: MAERT violation.
 - Self Report? NO Classification: Major
 - Citation: 1689 OP
19778 PERMIT
30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
 - Description: MAERT violation.
 - Self Report? NO Classification: Moderate
 - Citation: 1689 OP
19778 PERMIT
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)
 - Description: Failure to comply with the NOx and CO hourly averages as specified in Permit 19778 SC 13.
 - Self Report? NO Classification: Moderate
 - Citation: 1689 OP

19778 PERMIT
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)

Description: Failure to comply with monitoring requirements of the Cooling Towers (COOL-1) and (COOL-2) as specified in Permit 19778 SC 11E.

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with monitoring requirements of the Cooling Towers (COOL-1) and (COOL-2) as specified in Permit 19778 SC 11G.

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the minimum circulation flow rates for the Granulator and Cooler Scrubbers (Unit 6) as specified in Permit 19778 SC 14B(1).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual flow monitoring calibration for the Granulator and Cooler Scrubbers (Unit 6) as specified in Permit 19778 SC 14(B)(2).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the specific gravity requirements for the Granulator Scrubber (Unit 6) as specified in Permit 19778 SC 14(C)(1).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual calibration of the specific gravity device for the Granulator and Cooler Scrubbers (Unit 6) as specified in Permit 19778 SC 14(C)(2).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual calibration of the temperature monitoring device for the Granulator and Cooler Scrubbers (Unit 6) as specified in Permit 19778 SC 14(D)(2).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual calibration of the pressure monitoring device for the Granulator and Cooler Scrubbers (Unit 6) as specified in Permit 19778 SC 14(E)(2).

Self Report? NO Classification: Moderate

Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual calibration of the monitoring device for the

Prilling Tower Scrubber (Unit 5) as specified in Permit 19778 SC 15C.

Self Report? NO Classification: Moderate
Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the annual calibration of the flow monitoring device for the Prilling Tower Scrubber (Unit 5) as specified in Permit 19778 SC 15F.

Self Report? NO Classification: Moderate
Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the provisions of Permit 19778 SC 22A regarding the triboelectric bag leak detection device (SC-101) and (SC-102).

Self Report? NO Classification: Moderate
Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with the provisions of Permit 19778 SC 27(B)(1) regarding a CEMS plan for the Reformer (Unit 2).

Self Report? NO Classification: Moderate
Citation: 1689 OP
19778 PERMIT
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)

Description: Failure to comply with visible emissions observations.

Self Report? NO Classification: Moderate
Citation: 1689 OP
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 Kb 60.112b(a)(3)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with visible inspection of storage tank (UF-85 TNK).

Self Report? NO Classification: Moderate
Citation: 1689 OP
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 JJJJ 60.4245(a)(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the provisions of 40 CFR Part 60 Subpart JJJJ, §60.4245(a)(4).

Self Report? NO Classification: Moderate
Citation: 1689 OP
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 Db 60.48b(f)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the provisions of 40 CFR Part 60 Subpart Db, §60.48b(f).

Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
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)

Description: Failure to comply with visible emissions observations and recordkeeping.

2 Date: 10/13/2022 (1846927)

Self Report? NO Classification: Moderate
Citation: 1689 OP
30 TAC Chapter 111, SubChapter A 111.111(a)(1)(B)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Description: Failure to comply with the visible emission limits required by the Federal Operating Permit no. 1689.

3 Date: 06/08/2023 (1903801)
Self Report? NO Classification: Minor
Citation: 3.B. PERMIT
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 60.13(c)(2)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Db 60.48b(e)
5C THSC Chapter 382 382.085(b)
ST&C 10 OP
Description: Failure to submit a timely report.

4 Date: 06/15/2023 (1903207)
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Nutrien reported an exceedance of emissions on the package boiler (PKGB1)
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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 Db 60.49b(r)(2)
5C THSC Chapter 382 382.085(b)
Description: Failure to comply with fuel analysis provisions of 40 CFR 60.49b(r)(2)
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)
Description: Failure to comply with NOx and CO hourly averages for the reformer (Unit 2)
outlined in permit 19778 SC 9
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Failure to comply with NH3 flare flame (FL-1) detection requirements outlined in
Permit 19778 SC 12B
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Failure to comply with pressure drop and flow rate requirements for Prilling Tower
Scrubber (Unit 5) outlined in Permit 19778 SC 15B and 15D
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Failure to comply with monitoring and record keeping requirements for the prilling
tower scrubber (Unit 5) outlined in Permit 19778 SC 15G
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Failure to comply with calibration requirements for leak detection instrumentation
used to monitor storage tank UF-85 as required by NSR Permit 19778 SC 16E
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)
Description: Failure to comply with Carbon Adsorption System monitoring and recordkeeping
requirements for storage tank UF-85 as outlined in Permit 19778 SC 17
Self Report? NO Classification: Moderate
Citation: 19778 PERMIT
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)

Description: Failure to comply with NH3 monitoring and recordkeeping requirements outlined in Permit 19778 SC 20A
 Self Report? NO Classification: Moderate
 Citation: 19778 PERMIT
 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)

Description: Failure to comply with granule and prill spill monitoring and cleanup requirements as outlined in Permit 19778 SC 24C
 Self Report? NO Classification: Moderate
 Citation: 19778 PERMIT
 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)

Description: Failure to comply with recordkeeping requirements for maintenance, startup, and shutdown as outlined in Permit 19778 SC 29
 Self Report? NO Classification: Moderate
 Citation: 19778 PERMIT
 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)

Description: Failure to comply with permit amendment requirements outlined in Permit 19778 SC 33G
 Self Report? NO Classification: Moderate
 Citation: 19778 PERMIT
 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)

Description: Failure to comply with 12-month rolling throughput requirements for storage tank (T-4) as required in Permit 19778 SC 16C
 Self Report? NO Classification: Moderate
 Citation: 19778 PERMIT
 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)

Description: MAERT violation. Nutrien reported a 12-month rolling total exceedance of CO2 and CO2e on the ammonia emergency flare (FL-1)

F. Environmental audits:

Notice of Intent Date: 03/01/2022 (1802516)
 Disclosure Date: 06/10/2022
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Description: Failure to complete daily inspections and cleanup of fugitive dust sources of urea granule and prill product handling.

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
NUTRIEN US LLC F/K/A AGRIUM U.S.
INC.
RN101865715

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2021-1562-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 Nutrien US LLC f/k/a Agrium U.S. Inc. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a fertilizer manufacturing plant located at 9201 Farm Road 1551 in Borger, Hutchinson County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$50,938 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$50,938 of the penalty.
5. 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). 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.
6. 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 Order.

7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
 - a. On July 15, 2021, submitted the initial notification for Incident No. 362490; and
 - b. On September 14, 2021, submitted the final record for Incident No. 365621.

II. ALLEGATIONS

1. During a record review for the Plant conducted on October 28, 2021, an investigator documented that the Respondent:
 - a. Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(a)(1)(B) and 122.143(4), Federal Operating Permit ("FOP") No. O1689, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the initial notification for Incident No. 362490 was due by July 15, 2019 at 12:29 p.m., but was not submitted until July 15, 2021 at 3:34 p.m.
 - b. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c), and 122.143(4), New Source Review ("NSR") Permit Nos. 19778 and PSDTX1326, Special Conditions ("SC") No. 1, FOP No. O1689, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 13,921.70 pounds of carbon monoxide ("CO") from the Shift Converters, Emissions Point Number ("EPN") SP-73, during an emissions event (Incident No. 362490) that occurred on July 14, 2021 and lasted 22 hours and 56 minutes. The emissions event occurred due to a mechanical failure of the internal rotor on 101-J during a startup activity following an unplanned shutdown, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
2. During a record review for the Plant conducted on December 30, 2021, an investigator documented that the Respondent:
 - a. Failed to submit a final record for a reportable emissions event no later than two weeks after the end of the emissions event, in violation of 30 TEX. ADMIN. CODE §§ 101.201(c) and 122.143(4), FOP No. O1689, GTC and STC No. 2.F, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the final record for Incident No. 365621 was due by September 9, 2021, but was not submitted until September 14, 2021.

- b. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3), 116.115(c) and 122.143(4), NSR Permit Nos. 19778 and PSDTX1326, SC No. 1, FOP No. O1689, GTC and STC No. 10, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 16,641.00 lbs of CO from the Shift Converters, EPN SP-73, during an emissions event (Incident No. 365621) that began on August 25, 2021 and lasted 10 hours and eight minutes. The emissions event occurred when an intercooler developed a leak that caused abnormal scaling in the lines feeding the Flow Indicating Controller FIC0004 and led to the mechanical failure of Flow Indicating Controller FIC0004, resulting in the release to the atmosphere. Since the Respondent did not comply with the emissions event reporting requirements, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

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

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Nutrien US LLC f/k/a Agrium U.S. Inc., Docket No. 2021-1562-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 undertake the following technical requirements at the Plant:
 - a. Within 30 days after the effective date of this Order:
 - i. Implement measures and/or procedures designed to ensure that the initial notifications for reportable emissions events are submitted in a timely manner;
 - ii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 362490; and
 - iii. Implement measures and/or procedures designed to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 365621.

- b. Within 45 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Air Section Manager
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Enforcement Division at the address listed above.

7. This 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 Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

10/5/2023

Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG 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

08/11/2023

Date

Bobby E. Franklin

Name (Printed or typed)
Authorized Representative of
Nutrien US LLC f/k/a Agrium U.S. Inc.

General Mgr.

Title

If mailing address has changed, please check this box and provide the new address below:

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