

Jon Niermann, *Chairman*  
Emily Lindley, *Commissioner*  
Bobby Janecka, *Commissioner*  
Kelly Keel, *Executive Director*



## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

*Protecting Texas by Reducing and Preventing Pollution*

January 19, 2024

Laurie Gharis, Chief Clerk  
Office of the Chief Clerk  
Texas Commission on Environmental Quality  
P.O. Box 13087, MC-105  
Austin, Texas 78711-3087

Re: Application by Linde Inc. for Approval to Construct a Wastewater Treatment Plant  
Pursuant to Texas Water Code Section 26.027(c); Permit No. WQ0005439000 TCEQ  
Docket No. 2023-1702-MWD

Dear Ms. Gharis:

Enclosed for filing with the Texas Commission on Environmental Quality is the Executive Director's recommendation regarding Linde Inc.'s request for approval to construct a wastewater treatment plant.

Please do not hesitate to contact me at [harrison.malley@tceq.texas.gov](mailto:harrison.malley@tceq.texas.gov) or (512) 239-1439 if you have any questions. Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script, reading "Harrison Cole Malley".

Harrison Cole Malley  
Staff Attorney  
Environmental Law Division

Division Enclosure

Cc: Mailing List

**MAILING LIST**

**Linde Inc.**

**TCEQ Docket 2023-1702-MWD; TPDES Permit No. WQ0005439000**

**FOR THE APPLICANT:**

Heather McCormick  
Linde Inc.  
PO Box 230  
Geismar, Louisiana 70734

Holly Fults  
Burns & McDonnell  
6200 Bridge Point Parkway, Building 4  
Austin, Texas 78730

Jeffrey A. Saitas  
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6100 Carry Back Lane  
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**FOR THE EXECUTIVE DIRECTOR**  
via electronic mail:

Harrison "Cole" Malley, Staff Attorney  
Texas Commission on Environmental  
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Environmental Law Division, MC-173  
P.O. Box 13087  
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**FOR PUBLIC INTEREST COUNSEL**  
via electronic mail:

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**FOR THE CHIEF CLERK**  
via eFilings:

Docket Clerk  
Texas Commission on Environmental  
Quality  
Office of Chief Clerk, MC-105  
P.O. Box 13087  
Austin, Texas 78711

**Texas Commission on Environmental Quality**  
**INTEROFFICE MEMORANDUM**

**TO:** Commissioners

**THRU:** Erin Chancellor, Director, Office of Legal Services  
Charmaine Backens, Deputy Director, Environmental Law Division  
Todd Galiga, Senior Attorney, Environmental Law Division

**FROM:** Cole Malley, Staff Attorney, Environmental Law Division

**DATE:** January 19, 2024

**SUBJECT:** Linde Inc. (Linde); Application for an Order Authorizing Commencement of Construction; Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0005439000 TCEQ Docket No. 2023-1702-MWD

**DESCRIPTION OF MATTER:**

Linde has applied to the Texas Commission on Environmental Quality (TCEQ or Commission) seeking an authorization to construct (ATC) a new wastewater treatment plant. According to Linde, the ATC is necessary as the wastewater treatment plant must be constructed first in order construct other aspects of their operation.

**APPLICANT:** Linde Inc.

**TYPE:** Authorization to Construct

**BACKGROUND:**

According to the application, Linde has applied for a TPDES permit to support the Linde Blue Hydrogen Project in Nederland, Jefferson County, Texas.

On September 8, 2023, Linde submitted an application for TPDES permit WQ0005439000. On December 11, 2023, Linde submitted the application for an ATC for this proposed wastewater treatment plant. Linde is seeking authorization to discharge treated wastewater at a volume not to exceed an annual average flow of 1,670,000 gallons per day. The application was declared Administratively Complete on October 25, 2023 and is now in technical review.

Linde proposes to operate Nederland Facility (RN111708863), a chemical manufacturing facility which will discharge effluent generated from hydrogen production. The facility will be located at 6145 Highway 69 South, Beaumont, in Jefferson County, Texas 77705. The discharge route will be from the plant site via Outfall 001 piped to Neches River Tidal; and via Outfall 002 to a pond, thence to a drainage ditch, thence to Rhodair Gully, thence to Taylor Bayou Above Tidal. According to their ATC request, Linde's hydrogen production project will require the construction

of two hydrogen producing trains, one air separation unit, the carbon dioxide removal system and support utilities. Linde states that the construction of the wastewater plant will be an integral component of what they describe as a greenfield construction project. Through an agreement with ExxonMobil, Linde will supply hydrogen to OCI's blue ammonia plant. Linde argues that without the successful commissioning and startup of this facility, they will be unable to, "commence with facility startup activities which directly impacts Linde's client's ability to start up their blue ammonia plant." Linde described the anticipated schedule as:

- February 2024 - Installation of WWTP Piles
- May 2024 - Wastewater Treatment Area Foundation
- June 2024 - Mechanical Electrical Subsystems
- August 2024 - WWTP Equipment Installation
- February 2025 - WWTP Mechanical Completion
- March 2025 - Pre-Commissioning Activities Begin
- June 2025 - Startup
- July 2025 - Processing Wastewater

#### CONSTRUCTION ACTIVITIES:

In its ATC request, Linde acknowledges that Commission approval of the construction of the wastewater treatment facility does not guarantee that the TPDES permit will be issued. Linde further acknowledges that the issuance of an ATC does not authorize discharges from the facility. Linde also states in its request that it, "accepts any construction activities conducted by Linde as a result of the ATC issuance is at Linde's risk and all financial responsibility for the construction is held solely by Linde."

According to Linde's ATC request, the construction of a multicomponent wastewater collection and treatment system is complex and requires coordination with "specialty construction craft workers." Linde states that delays to construction of sumps and piping will delay the construction process and disrupt remaining construction activities.

Linde further states that they have considered using local facilities to discharge their effluent and while capacity for their effluent exists, they would still need to construct a facility to pretreat effluent prior to discharging to a publicly owned treatment works.

The Notice of Receipt of Application and Intent to Obtain Water Quality Permit was mailed on October 26, 2023, and published on November 9, 2023. No comments have been received.

COMPLIANCE HISTORY:

See attached Compliance Summary.

AUTHORITY:

Texas Water Code (TWC) §§ 26.019 and 26.027(c). Under TWC § 26.027(c), a person may not commence construction of a treatment facility until the Commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the Commission. TWC § 26.019 authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of TWC Chapter 26.

EXECUTIVE DIRECTOR RECOMMENDATION:

The Executive Director recommends that Linde's request for an ATC for the wastewater treatment facility be approved. Linde has provided a sufficient justification for obtaining authorization to construct the wastewater treatment facility by explaining that the authorization is necessary for reasonable and efficient construction for their greenfield construction project.

CONTACT: Michael Sunderlin, Industrial Permits Team, Wastewater Permitting Section (MC 148), Water Quality Division, TCEQ, (512) 239- 4523.

LEGAL: Harrison Cole Malley, Staff Attorney, Environmental Law Division (MC 173), TCEQ, (512) 239-3417.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**AN ORDER** Granting the Request by Linde Inc for an Order Authorizing Commencement of Construction; TCEQ Docket No. 2023-1702-MWD

On February 7, 2024, the Texas Commission on Environmental Quality (Commission or TCEQ) considered Linde Inc's (Linde) request for an Order authorizing commencement of construction under Texas Water Code (TWC) §§ 26.019 and 26.027(c). The underlying Texas Pollutant discharge Elimination System (TPDES) application seeks authorization to discharge treated wastewater at a volume not to exceed a daily average flow of 1.67 million gallons per day.

Linde proposes to operate Nederland Facility (RN111708863), a chemical production facility which will process waste generated from a hydrogen production facility. The proposed wastewater treatment facility will be located at 6145 Highway 69 South, Beaumont, in Jefferson County, Texas 77705.

The discharge route will be from the plant site via Outfall 001 piped to Neches River Tidal; and via Outfall 002 to a pond, thence to a drainage ditch, thence to Rhodair Gully, thence to Taylor Bayou Above Tidal.

A copy of the request for Authorization to Construct (ATC) is attached as Exhibit A. Having considered the evidence, the Commission finds that the request by Linde should be granted.

**FINDINGS OF FACT**

1. On September 8, 2023, Linde submitted an application for new TPDES Permit No. WQ0005439000, seeking authorization to discharge treated wastewater at a final volume not to exceed a daily average flow of 1.67 million gallons per day.
2. On December 11, 2023, Linde submitted a written request for authorization to construct a new wastewater treatment facility.
3. Linde proposes to operate Nederland Facility (RN111708863), a chemical production facility. The facility will be located at 6145 Highway 69 South, Beaumont, in Jefferson County, Texas.
4. Linde requested an ATC while its application for the TPDES permit is pending before the Commission. Linde requested this ATC because without successful commissioning and startup of this facility, they will be unable to commence with facility startup activities of their hydrogen project thus impairing their ability to

supply hydrogen to their client's blue ammonia plant. The coordination of skilled laborers with the commissioning schedule also requires that the wastewater treatment plant be constructed first.

## **CONCLUSIONS OF LAW**

1. TWC § 26.027(c) prohibits a person from commencing construction of a treatment facility until the Commission has issued a permit authorizing the discharge of waste from the facility unless the Commission has approved the construction.
2. TWC § 26.019 authorizes the Commission to issue orders and make determinations necessary to effectuate the purposes of TWC Chapter 26.
3. The purpose of TWC Chapter 26 is to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.
4. The Findings of Fact above provide sufficient justification to issue this Order under TWC § 26.027.
5. This Order will effectuate the purposes of TWC Chapter 26.
6. This Order does not authorize operation of, or a discharge from, the wastewater treatment facility to be constructed under this Order before obtaining a permit or other authorization from the Commission.

## **THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS THAT:**

1. Linde is authorized to commence construction of its proposed wastewater treatment facility at 6145 Highway 69 South, Beaumont, in Jefferson County, Texas.
2. Linde is authorized to commence construction under this Order at its own risk. Any draft permit limitations or constraints contained in TCEQ Permit No. WQ0005439000 may change during the internal review process, the public comment process, or the contested case hearing process.
3. Linde shall not operate or discharge effluent from the facility to be constructed under this Order until it obtains a TPDES permit from the Commission.
4. This Order shall not constrain, bind, or commit the Commission in its decision on any proceeding or matter before the Commission relating to TCEQ Permit No. WQ0005439000.
5. This Order does not convey any property rights in either real or personal property, or any exclusive privileges; nor does it obviate the necessity of (1) complying with

any applicable Federal, State, or local laws or regulations; and (2) obtaining Federal, State, or local permits or authorizations required by law for the activities authorized by this Order.

6. The Chief Clerk of the Commission is directed to forward a copy of this Order to Linde, the Executive Director of the Commission, and the Public Interest Counsel of the Commission, and to issue the Order and cause it to be recorded in the files of the Commission.

Issued this date:

TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

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Jon Niermann, Chairman





# Compliance History Report

Compliance History Report for CN600130645, RN111708863, Rating Year 2023 which includes Compliance History (CH) components from September 1, 2018, through August 31, 2023.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600130645, Linde Inc.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	0.32
<b>Regulated Entity:</b>	RN111708863, NEDERLAND FACILITY	<b>Classification:</b>	UNCLASSIFIED	<b>Rating:</b>	-----
<b>Complexity Points:</b>	10	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	05 - Chemical Manufacturing				
<b>Location:</b>	INTX OF US 287 N US 69 N IN NEDERLAND DRIVE 2.5 MI N EXIT ON US 69 ACCESS RD AND DRIVE 0.5 MI TURN RIGHT ONTO FM3514 DRIVE APPROX 450 FT AND FACILITY IS ON THE LEFT JEFFERSON, TX, JEFFERSON COUNTY				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				
<b>ID Number(s):</b>					
<b>WASTEWATER</b>	EPA ID TX0145106	<b>WASTEWATER PERMIT</b>	WQ0005439000		
<b>AIR NEW SOURCE PERMITS</b>	PERMIT 172324	<b>AIR NEW SOURCE PERMITS</b>	EPA PERMIT GHGPSDTX231		
<b>AIR NEW SOURCE PERMITS</b>	EPA PERMIT PSDTX1620	<b>STORMWATER PERMIT</b>	TXR1563MW		
<b>Compliance History Period:</b>	September 01, 2018 to August 31, 2023	<b>Rating Year:</b>	2023	<b>Rating Date:</b>	09/01/2023
<b>Date Compliance History Report Prepared:</b>	January 05, 2024				
<b>Agency Decision Requiring Compliance History:</b>	Permit - Issuance, renewal, amendment, modification, denial, suspension, or revocation of a permit.				
<b>Component Period Selected:</b>	September 08, 2018 to January 05, 2024				
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>					
<b>Name:</b>	MICHAEL SUNDERLIN		<b>Phone:</b>	(512) 239-4523	

## Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 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:**

N/A

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

N/A

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

N/A

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

N/A

### **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.

N/A

### **F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A