

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

****FILED**
15 JULY 2021
U.S. EPA - REGION IX**

IN THE MATTER OF:)	Docket No.
)	
)	CAA(112r)-09-2021-0039
)	
Praxair, Inc.)	
2006 East 223rd Street)	CONSENT AGREEMENT
Carson, CA 90810)	AND FINAL ORDER
)	40 C.F.R. §§ 22.13 and 22.18
)	
<u>Respondent.</u>)	

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative enforcement action instituted pursuant to Section 113(a)(3)(A) and (d) of the Clean Air Act (“CAA”), as amended, 42 U.S.C. §§ 7413(a)(3)(A) and (d), Section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9609, Section 325 of the Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”), 42 U.S.C. § 11045, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules”), 40 C.F.R. Part 22.
2. Complainant is the United States Environmental Protection Agency, Region IX (“EPA”).
3. Respondent is Praxair, Inc., now known as Linde Inc. (“Respondent”).
4. The Administrator of EPA has delegated to the Regional Administrators the authority to sign consent agreements memorializing settlements of enforcement actions under the CAA, CERLCA, and EPCRA. Delegation 7-6-A, dated August 4, 1994 (CAA); Delegation 14-31, dated May 11, 1994 (CERCLA); Delegation 22-3-A, dated July 20, 2016 (EPCRA). The Regional



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Administrator, EPA Region IX, in turn, has re-delegated this authority to the Director of the Enforcement and Compliance Assurance Division. Regional Delegation R9-7-6-A, dated February 11, 2013 (CAA); Regional Delegation R9-14-31, dated May 1, 2019 (CERCLA); Regional Delegation R9-22-3-A, dated February 11, 2013 (EPCRA). On EPA's behalf, the Director of the Enforcement and Compliance Assurance Division is therefore delegated the authority to settle civil administrative penalty proceedings under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), Section 109 of CERCLA, 42 U.S.C. § 9609, and Section 325(b) of EPCRA, 42 U.S.C. § 11045(b).

5. This Consent Agreement and Final Order ("CA/FO"), pursuant to 40 C.F.R. §§ 22.13 and 22.18, simultaneously commences and concludes this proceeding, wherein EPA alleges that Respondent violated Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 312 of EPCRA, 42 U.S.C. § 11022, and their implementing regulations.

6. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CA/FO. Respondent agrees to comply with the terms of this CA/FO.

B. GENERAL ALLEGATIONS

7. Respondent owns and operates a carbon dioxide liquification plant, located at 2006 East 223rd Street in Carson, California ("Facility"). Respondent uses anhydrous ammonia to produce and refrigerate liquid carbon dioxide.

8. On September 19, 2017, EPA performed an inspection of the Facility pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), Section 103 of CERCLA, 42 U.S.C. § 9603, and Sections 302-312 of EPCRA, 42 U.S.C. §§ 11002-22. Based upon the information gathered during this

inspection and subsequent investigation, EPA asserts that Respondent violated certain provisions of the CAA, CERCLA and EPCRA.

9. EPA and the United States Department of Justice jointly determined that this matter, although it involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment. *See* 42 U.S.C. § 7413(d); 40 C.F.R. § 19.4.

10. At all times relevant to this CA/FO, Respondent has been a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e), Section 101(21) of CERCLA, 42 U.S.C. § 9601(21), and Section 329(7) of EPCRA, 42 U.S.C. § 11049(7).

11. At all times relevant to this CA/FO, the Facility has been a “stationary source” as defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C). The Facility is also a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9), and Section 329(4) of EPCRA, 42 U.S.C. 11049(4).

12. At all times relevant to this CA/FO, Respondent has been the “owner or operator” of the Facility as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20).

13. Respondent is subject to the powers vested in the EPA Administrator by Section 113 of the CAA, 42 U.S.C. § 7413, Section 104 of CERCLA, 42 U.S.C. § 9604, and Section 302 of EPCRA, 42 U.S.C. §11002.

CAA Section 112(r)

14. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r), and its implementing regulations, owners, and operators of stationary sources at which a regulated substance is present in more than a threshold quantity (“TQ”) must prepare and implement a risk management plan

("RMP") to detect and prevent or minimize accidental releases of such substances from the stationary sources in order to protect human health and the environment.

15. Pursuant to Section 112(r) of the CAA, 42 U.S.C. § 7412(r), EPA established a TQ for each "regulated substance" at or above which a facility using such a substance in one or more processes shall be subject to the requirements of Section 112(r) of the CAA, 42 U.S.C. § 7412(r). For substances designated as "regulated toxic substances," the TQs are specified at 40 C.F.R. § 68.130, Table 1.

16. Ammonia (anhydrous) is a "regulated toxic substance" listed under Section 112(r)(3) of the CAA, 42 U.S.C. § 7412(r)(3), with a TQ of 10,000 pounds. 40 C.F.R. § 68.130, Table 1.

17. At all times relevant to this CA/FO, Respondent has had 10,000 pounds or more of ammonia (anhydrous) in one or more processes at its Facility.

CERCLA Section 103

18. CERCLA Section 103(a), 42 U.S.C. § 9603(a), and its implementing regulation, 40 C.F.R. § 302.6, requires any person in charge of a facility, as defined in the statute at Section 101(9), 42 U.S.C. § 9601(9), to immediately notify the National Response Center ("NRC") as soon as the person in charge has knowledge of a release of a hazardous substance from such facility in an amount equal to or greater than the reportable quantity ("RQ").

19. Ammonia is a "hazardous substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601, with an RQ of 100 pounds. 40 C.F.R. §302.4.

20. At all times relevant to this CA/FO, Respondent has had 100 pounds or more of ammonia (anhydrous) in one or more processes at its Facility.

EPCRA Section 312

21. Section 312 of EPCRA, 42 U.S.C. § 11022, requires the owner or operator of a facility which is required to prepare or have available a material safety data sheet (“MSDS”) for a hazardous chemical under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 *et seq.*, to submit an annual emergency and hazardous chemical inventory form (“inventory form”) containing information on hazardous chemicals present at the facility during the preceding calendar year above threshold levels established in 40 C.F.R. § 370.20(b). The inventory form must be submitted by March 1 of each year to the State Emergency Response Commission (“SERC”), the Local Emergency Planning Committee (“LEPC”), and the fire department with jurisdiction over the facility. 40 C.F.R. § 370.25.

22. Ammonia is a “hazardous chemical” as defined in Sections 311(e) and 312(c) of EPCRA, 42 U.S.C. §§ 11021(e) and 11022(c), with a threshold planning quantity of 500 pounds. 40 C.F.R. Part 355, App. A & B.

23. At all times relevant to this CA/FO, Respondent has had 500 pounds or more of ammonia (anhydrous) in one or more processes at its Facility.

C. ALLEGED VIOLATIONS

24. Based on the facts above, EPA alleges that Respondent has violated Section 103 of CERCLA, Section 312 of EPCRA and Section 112(r)(7) of the CAA, and the codified rules of 40 C.F.R. Part 68, governing the CAA’s Chemical Accident Prevention Provisions, as follows:

COUNT I

(Failure to immediately notify the NRC of a Release of an RQ of anhydrous ammonia)

25. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

26. On January 20, 2019, Respondent's facility released more than the RQ of anhydrous ammonia. Respondent had actual or constructive knowledge of the anhydrous ammonia release at 4:25 pm, but the NRC was not notified until 1:07 pm the following day.

27. Respondent violated Section 103 of CERCLA, 42 U.S.C. § 9603 and 40 C.F.R. 302.6 because it did not immediately notify the NRC as soon as it had knowledge of the release of an RQ of anhydrous ammonia.

COUNT II

(Failure to submit accurate annual chemical inventory forms)

28. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

29. Pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, and its implementing regulations at 40 C.F.R. §§ 370.40(a) and 370.45, owners and operators of facilities must annually submit emergency and hazardous chemical inventory information to the appropriate state and local officials by March 1st.

30. Pursuant to Section 312 of EPCRA, 42 U.S.C. § 11022, and 40 C.F.R. § 370.42(s)(6), the emergency and chemical inventory information must include the maximum amount of the hazardous chemical present at the facility on any single day during the preceding calendar year.

31. Based on EPA's inspection and information gathered during EPA's investigation, Respondent did not submit the correct maximum quantity of anhydrous ammonia at the Facility during calendar year 2017, in violation of 40 C.F.R. § 370.42(s)(6).

32. Respondent violated EPCRA § 312, Tier II Inventory, 40 C.F.R. § 370.42(s)(6) because it did not report the correct maximum quantity of anhydrous ammonia at the Facility during the 2017 calendar year.

COUNT III

(Failure to document equipment complies with labeling RAGAGEP)

33. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

34. 40 C.F.R. § 68.65(d)(2) requires owners and operators to document that process equipment complies with recognized and generally accepted good engineering practices (“RAGAGEP”). For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in use, 40 C.F.R. § 68.65(d)(3) requires owners or operators to determine and document that their equipment is designed, maintained, inspected, tested, and operated in a safe manner.

35. The American National Standards Institute (“ANSI”), the American Society of Mechanical Engineers (“ASME”), the American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”), the National Fire Protection Association (“NFPA”), and the International Institute of Ammonia Refrigeration (“IIAR”) specify RAGAGEP for the ammonia refrigeration industry and are applicable standards for Respondent’s Facility.

36. According to the above standards, Respondent did not ensure that equipment at its Facility was labeled consistent with RAGAGEP. For example, Respondent did not properly label and tag critical valves, ammonia refrigeration piping, emergency shut-off switches, ammonia detection alarm lights and doors entering hazardous areas; and Respondent did not have adequate access equipment to operate a manual isolation valve located high off the floor, as required by the industry standards described in ANSI/IIAR 2-2014, Sections 5.14.3, 5.14.5, 6.3.3.1, 6.12.1, 6.15.1 and 17.6, IIAR Bulletin 109, Sections 4.7.6 and 4.10.3, IIAR Bulletin 114, Section 4.1.1 – 4.1.8, ANSI/ASME A13.1, ANSI/ASHRAE 15-2016, Sections 8.3, 8.11.2.1 and 11.2.2, and NFPA 1-2012, Sections 53.2.4.1 and 53.2.4.2(1).

37. Respondent violated 40 C.F.R. §§ 68.65(d)(2)-(3) because it did not label process equipment to comply with RAGAGEP and did not have adequate access equipment consistent with industry standards.,

COUNT IV

(Failure to document equipment complies with ventilation RAGAGEP)

38. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

39. 40 C.F.R. § 68.65(d)(2) requires owners and operators to document that process equipment complies with RAGAGEP. For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in use, 40 C.F.R. § 68.65(d)(3) requires owners or operators to determine and document that their equipment is designed, maintained, inspected, tested, and operated in a safe manner.

40. ANSI, ASHRAE, NFPA and IIAR specify RAGAGEP for the ammonia refrigeration industry and are applicable standards for Respondent's Facility.

41. According to the above standards, Respondent did not ensure that equipment at its Facility was maintained consistent with RAGAGEP pertaining to ventilation. For example, Respondent did not have emergency ventilation overrides and remote shut-off controls with a tamper resistant enclosure outside of a machinery room, and Respondent's ventilation exhaust fans discharged horizontally instead of vertically, as required by the industry standards described in ANSI/IIAR 2-2014, Sections 6.12.1 and 6.14.3.5, ASNI/ASHRAE 15-2016, Section 8.12(h), and NFPA 1-2012, Section 53.2.3.4.5.

42. Respondent violated 40 C.F.R. §§ 68.65(d)(2)-(3) because it did not maintain ventilation equipment consistent with RAGAGEP.

COUNT V

(Failure to document equipment complies with other RAGAGEP)

43. Paragraphs 1 through 23, above, are incorporated herein by this reference as if they were set forth here in their entirety.

44. 40 C.F.R. § 68.65(d)(2) requires owners and operators to document that process equipment complies with RAGAGEP. For existing equipment designed and constructed in accordance with codes, standards, or practices that are no longer in use, 40 C.F.R. § 68.65(d)(3) requires owners or operators to determine and document that their equipment is designed, maintained, inspected, tested, and operated in a safe manner.

45. ANSI, ASHRAE, NFPA, and IIAR specify RAGAGEP for the ammonia refrigeration industry and are applicable standards for Respondent's Facility.

46. According to the above standards, Respondent did not maintain equipment consistent with RAGAGEP. For example, in certain locations, the Facility's anhydrous ammonia piping systems contained damaged or missing insulation, in some instances resulting in ice buildup; the walls and doors to the machinery room were not properly sealed and the doors lacked self-closing mechanisms and panic hardware; and Respondent did not adequately protect electrical equipment with proper coverings, as required by the industry standards described in NFPA 1-2012, Sections 53.2.3.4.3 and 53.3.1.1, ANSI/IIAR 2-2014, Sections 5.10.1, and 6.10.2, IIAR Bulletin 109, Section 4.7.5, IIAR Bulletin 110, Section 6.4.4.3, ANSI/ASHRAE 15-2016, Sections 8.5, 8.11.3, and 8.12.c.

47. Respondent violated 40 C.F.R. §§ 68.65(d)(2)-(3) because it did not maintain process equipment consistent with RAGAGEP.



D. CIVIL ADMINISTRATIVE PENALTY

48. EPA proposes that Respondent be assessed, and Respondent agrees to pay **ONE-HUNDRED TWENTY-SEVEN THOUSAND DOLLARS (\$127,000.00)**, as the civil administrative penalty for the violations alleged herein.

49. The proposed penalty was calculated in accordance with the “Combined Enforcement Policy for Clean Air Act Sections 112(r)(1), 112(r)(7), and 40 C.F.R. Part 68” dated June 2012, and the “Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act” dated September 30, 1999, and was adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act, as amended, and the Civil Monetary Inflation Adjustment Rule, 40 C.F.R. Part 19.

E. ADMISSIONS AND WAIVER OF RIGHTS

50. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent: (i) admits that EPA has jurisdiction over the subject matter of this CA/FO and over Respondent; (ii) neither admits nor denies the specific factual allegations contained in the CA/FO; (iii) consents to any and all conditions specified in this CA/FO and to the assessment of the civil administrative penalty under Section H of this CA/FO; (iv) waives any right to contest the allegations contained in Section C of the CA/FO; and (v) waives the right to appeal the proposed final order contained in this CA/FO.

51. EPA and Respondent agree that settlement of this matter is in the public interest and that entry of this CA/FO without further litigation is the most appropriate means of resolving this matter.

F. PARTIES BOUND

52. This CA/FO shall apply to and be binding upon Respondent, and its successors and assigns, until such time as the civil penalty required under Section D (and any additional civil penalty required under Section I) have been paid, the compliance tasks under section G have been completed, and any delays in performance and/or stipulated penalties have been resolved.

53. No change in ownership or legal status relating to the Facility will in way alter Respondent's obligations and responsibilities under this CA/FO.

54. Until all the requirements of this CA/FO are satisfied, Respondent shall give notice of this CA/FO to any successor in interest prior to transfer of ownership or operation of the Facility and shall notify EPA within seven (7) days prior to such transfer.

55. The undersigned representative hereby certifies that he or she is fully authorized by Respondent to enter into and execute this CA/FO, and to legally bind Respondent to it.

G. COMPLIANCE TASKS

56. All submissions required in this section shall be in writing and sent to Don Nixon, electronically at Nixon.don@epa.gov, or, if a hard copy is requested, to:

Don Nixon (ENF-2-2)
Enforcement Compliance and Assurance Division
U.S. Environmental Protection Agency – Region 9
75 Hawthorne Street
San Francisco, CA 94105

57. If Respondent is unable to complete any of the compliance tasks required in this section within the associated schedule, Respondent shall submit a written request, including the basis for the request, for an extension to EPA. Based on this request, EPA may grant or deny an extension to the aforementioned schedule.

58. Within ninety (90) days of the effective date, modify the position of the Plant B roll up door such that its normal position is fully closed, except during maintenance activities where the

other doors are not sufficient to complete the maintenance task; and provide EPA with clear photographs showing task completion.

59. Within ninety (90) days of the effective date, install ventilation air intake vents in Plant B that meet all codes and standards for normal ventilation and emergency ventilation; and provide EPA with clear photographs showing task completion.

60. Within thirty (30) days of the effective date, install tamper resistant covering for the e-stop for Plant B; and provide EPA with clear photographs showing task completion.

H. PAYMENT OF CIVIL PENALTY

61. Respondent consents to the assessment of and agrees to pay civil administrative penalties of **ONE-HUNDRED TWENTY-SEVEN THOUSAND DOLLARS (\$127,000.00)** in settlement of the civil penalty claims made in this CA/FO. This CA/FO constitutes a settlement of all claims for the violations of Section 112(r) of the CAA, 42 U.S.C. § 7412(r), violations of Section 312 of EPCRA, 42 U.S.C. § 11022, and violations of Section 103 of CERCLA, 42 U.S.C. § 9603 alleged in Section C above.

62. Respondent shall pay the assessed civil penalty within thirty (30) days of the Effective Date of this CA/FO. The Effective Date of this CA/FO is the date that the Final Order contained in this CA/FO having been approved and issued by the Regional Judicial Officer is filed with the Regional Hearing Clerk.

63. All payments shall indicate the name of the Facility, EPA identification number of the Facility, the Respondent's name and address, and the appropriate EPA docket number of this action. Payment shall be made by corporate, certified, or cashier's checks payable to "Treasurer of the United States" and sent as follows:

Regular Mail:

U.S. Environmental Protection Agency



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Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
ATTN Box 979077

St. Louis, MO 63101
Contact: Natalie Pearson (314-418-4087)

Alternatively, payment may be made by electronic transfer as provided below:

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

ACH (also known as REX or remittance express):

Automated Clearinghouse (ACH) for receiving US currency

PNC Bank

808 17th Street, NW

Washington, DC 20074

Contact - Jesse White (301-887-6548)

ABA = 051036706

Transaction Code 22 - checking

Environmental Protection Agency

Account 31006

CTX Format

Online Payment:

This payment option can be accessed from the information below:

www.pav.gov

Enter "sfol.l" in the search field



Open form and complete required fields

A copy of each check, or notification that the payment has been made by one of the other methods listed above, including proof of the date payment was made, shall be sent with a transmittal letter, indicating Respondent's name, the case title, and docket number, to both:

Regional Hearing Clerk (RC-1)
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105
Armsey.Steven@epa.gov

And

Don Nixon
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105
Nixon.Donald@epa.gov

64. In accordance with the Debt Collection Act of 1982, failure to pay the penalty so that it is received by the due date will result in imposition of interest from the Effective Date of this CA/FO at the current interest rate published by the U.S. Treasury, as described at 40 C.F.R. §13.11. In addition, a six percent (6%) per annum penalty that will be assessed monthly will be applied on any principal amount not paid within ninety (90) days of the due date.

65. The penalties specified in this CA/FO shall represent civil administrative penalties assessed by EPA and shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

I. DELAY IN PERFORMANCE/STIPULATED PENALTIES

66. In the event that Respondent fails to meet any requirement set forth in this CA/FO, Respondent shall pay stipulated penalties as follows: FIVE HUNDRED DOLLARS (\$500) per day for the first to fifteenth day of delay, ONE THOUSAND DOLLARS (\$1,000) per day for the



sixteenth to thirtieth day of delay, and FIVE THOUSAND DOLLARS (\$5,000) per day for each day of delay thereafter. Compliance by Respondent shall include completion of any activity under this CA/FO in a manner acceptable to EPA and within the specified time schedules in and approved under this CA/FO.

67. Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day until performance is complete. Respondent shall pay stipulated penalties within fifteen (15) days of receipt of a written demand by EPA for such penalties. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of penalties in Section H of the CA/FO.

68. If a stipulated penalty is not paid in full, interest shall begin to accrue on the unpaid balance at the end of the fifteen-day period at the current rate published by the United States Treasury, as described at 40 C.F.R. § 13.11. EPA reserves the right to take any additional action, including but not limited to, the imposition of civil penalties, to enforce compliance with this CA/FO or with the CAA, EPCRA, CERCLA and their implementing regulations.

69. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state, or local taxation purposes.

70. Notwithstanding any other provision of this section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CA/FO.

J. RESERVATION OF RIGHTS

71. Except as addressed in this CA/FO, EPA hereby reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, including the right to require that Respondent perform tasks in addition to those required by this CA/FO. EPA further reserves all of its statutory and regulatory powers, authorities, rights and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this CA/FO,

including without limitation, the assessment of penalties under the CAA or any other statutory, regulatory, or common law enforcement authority of the United States. This CA/FO shall not be construed as a covenant not to sue, release, waiver or limitation of any rights, remedies, powers or authorities, civil or criminal, which EPA has under the CAA or any other statutory, regulatory, or common law enforcement authority in the United States.

72. Compliance by Respondent with the terms of this CAFO shall not relieve Respondent of its obligations to comply with the CAA or any other applicable local, state, tribal, or federal laws and regulations. This CA/FO is not intended to be nor shall it be construed as a permit. This CA/FO does not relieve Respondent of any obligation to obtain and comply with any local, state, tribal, or federal permits nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, tribal, state, or local permit.

73. The entry of this CA/FO and Respondent's consent to comply shall not limit or otherwise preclude EPA from taking additional enforcement action should EPA determine that such actions are warranted except as it relates to those matters resolved by this CA/FO. Respondent's full compliance with this CA/FO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged herein.

74. EPA reserves its right to seek reimbursement from Respondent for such additional costs as may be incurred by the United States in the event of delay of performance as provided by this CA/FO.

K. MISCELLANEOUS

75. This CA/FO may be amended or modified only by written agreement executed by both EPA and Respondent.

76. The headings in this CA/FO are for convenience of reference only and shall not affect interpretation of this CA/FO.



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77. Each party to this action shall bear its own costs and attorneys' fees.

78. Respondent consents to entry of this CA/FO without further notice.

L. EFFECTIVE DATE

79. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the Final Order contained in this CA/FO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

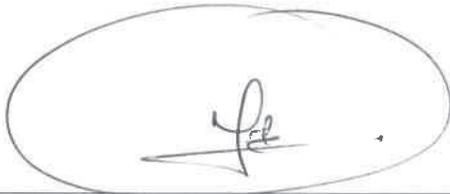
A handwritten signature in black ink, consisting of a stylized initial followed by a horizontal line.

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IT IS SO AGREED.

Respondent Praxair, Inc.

DATE: 04/27/2021

BY: 

Marcos Cuevas
Senior Business VP
Linde Inc.

United States Environmental Protection Agency, Region 9

DATE: _____

BY: **AMY MILLER-
BOWEN** 

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division

Digitally signed by AMY MILLER-
BOWEN
Date: 2021.06.14 11:38:46 -07'00'

FINAL ORDER

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (“CA/FO”) pursuant to 40 C.F.R. Sections 22.13 and 22.18 (Docket No. CAA (112r)-09-2021-0039) be entered and that Respondent pay a civil penalty ONE-HUNDRED TWENTY-SEVEN THOUSAND DOLLARS (\$127,000.00) due within thirty (30) days from the Effective Date of this CA/FO, in accordance with all terms and conditions of this CA/FO.

**STEVEN
JAWGIEL**

Digitally signed by STEVEN
JAWGIEL
Date: 2021.07.15 07:56:47
-07'00'

Date _____

Steven L. Jawgiel
Regional Judicial Officer
U.S. EPA, Region IX

CERTIFICATE OF SERVICE

This is to certify that the original of the fully executed Consent Agreement and Final Order in the matter of Praxair, Inc. [CAA(112r)-09-2021-0039] was filed with the Regional Hearing Clerk and that a true and correct copy of the same was sent to the following parties:

FOR RESPONDENT: Liz Leaderman
Senior Counsel, Environmental and Safety
Linde
Liz.Leamer@Linde.com

FOR COMPLAINANT: Diane Prend
Assistant Regional Counsel
U.S. EPA, Region IX
Prend.Diane@EPA.gov

Armsey Steven
Digitally signed by
Armsey, Steven
Date: 2021.07.15
19:21:21 -07'00'

Steven Armsey
Regional Hearing Clerk

Date