

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF THE ENVIRONMENT**

NEW MEXICO ENVIRONMENT DEPARTMENT,

Complainant,

v.

No. AQB Case: LUC-29885-2201

Targa Northern Delaware LLC,

Respondent.

ADMINISTRATIVE COMPLIANCE ORDER

Pursuant to NMSA 1978, Section 74-2-12 of the New Mexico Air Quality Control Act (“Act”) (collectively, NMSA 1978, §§ 74-2-1 through -17 (as amended through 2021)), the Environmental Protection Division (“Division”) of the New Mexico Environment Department (“Department” or “NMED”) issues this Compliance Order (“Order”) to Targa Northern Delaware, LLC (“Targa”), to require compliance and assess a civil penalty for the violations of the Act, the Air Quality Regulations at Title 20, Part 2 (“Regulations”) of the New Mexico Administrative Code (“NMAC”), and violations of an air quality permit regulations at the Red Hills Gas Processing Plant (“Facility”).

As set forth in the detailed allegations below, the Facility has reported excess emissions events through the Air Quality Bureau Compliance Reporting program (AQBCR) and has several instances of submitting late excess emissions reports (EERs). In addition, Targa Northern Delaware submitted inadequate Root Cause Analyses for over 50 events. A summary of these alleged violations is set forth in Table 1 below. This Order addresses the seriousness of the violations and the necessary corrective actions required to address them.

Table 1: Summary of Violations

Violation Number	Permit Condition and/or Regulation Violated	Violation Description
1	NSR Permits 4310 M3-M5R1, Specific Conditions A106.A and A107.A	Exceeding tons per year emission limits for flare units 1-EP-2, 2.5-EP-5, 2-EP-2a, and 4-EP-2a. This violation is supported by data agreed upon by Targa and NMED.
2	NSR Permits 4310 M3-M5R1, Specific Condition A106.A and A107.A	Exceeding pound per hour emission limits for units EP-5, EP-6, EP-8, 1-EP-2, 2.5-5, 2-EP-2a, 4-EP-2a, 4-EP-2a, 5.5-EP-2a, 2.5-EP-5, 3-EP-2a, 3-T, 5-EP-2, 2-EP-1h, 2-EP-1b, and EP-10. This violation is supported by EERs submitted by Targa.
3	NMAC 20.2.7.110.A	Failure to submit EERs according to appropriate timeframes in NMAC 20.2.7.110.A. The evidence comes from EERs submitted by Targa through AQBCR.
4	NMAC 20.2.7.114	Failure to adequately meet the requirements of a root cause analysis and failure to provide an analysis describing the root cause of the fifty-four excess emission events requested.

FACTUAL BACKGROUND

1. Targa owns and operates the Facility that is located at latitude 32.210556 and longitude -103.523889, Lea County, New Mexico.

2. During all relevant times, the Facility operated under the following permits:

Permit type	Permit number	Effective date	NMED Attachment Number
NSR	4310M3R1	January 22, 2018	1
NSR	4310M4	December 28, 2018	2
NSR	4310M4R1	January 31, 2019	3
NSR	4310M5	December 30, 2019	4
Title V	P278	June 26, 2019	5
Title V	P278M1	October 6, 2022	6

3. On July 8, 2022, an Air Quality Bureau (AQB) compliance reports analyst reviewed EERs submitted by the Facility between August 1, 2021, and June 30, 2022, through AQBCR. These EERs represented excess emissions events that occurred between November 11, 2018, and November 30, 2021. The analyst issued a Post-Inspection Notification (PIN) to the owner of the Facility at the time, Lucid Energy Delaware, LLC (“Lucid”), on July 11, 2022 [NMED Attachment 7]. This PIN became the basis of Enforcement case number LUC-29885-2201.

4. On July 12, 2022, the AQB analyst and Lucid personnel met by phone to discuss the PIN and tolling agreement sent with the PIN.

5. On July 28, 2022, Lucid personnel hand-delivered a copy of a Tolling Agreement to AQB’s office, signed by Lucid [NMED Attachment 8], and the signed PIN for LUC-29885-2201 [NMED Attachment 9]. The tolling agreement extended the statute of limitations until May 31, 2023. At that time, Lucid personnel stated that they would have corrections on 21 of 102 reports.

6. On July 29, 2022, Targa acquired the Facility from Lucid [NMED Attachment 10].

7. On September 17, 2022, Targa personnel submitted a revised spreadsheet with corrections to the EERs. [NMED Attachment 11]. The AQB analyst met with a Targa

representative by phone to discuss the revised calculations but still had remaining questions regarding missing values for expected combustion pollutants.

8. On January 3, 2023, the Compliance & Enforcement Chief (“Section Chief”) requested sample calculations and clarifications, which Targa supplied on January 10, 2023. **[NMED Attachment 12].**

9. On February 2, 2023, The Section Chief requested further clarifications. On February 10, 2023, Targa personnel and AQB managers met to discuss the proper reporting of excess emissions. The Section Chief requested recalculations of the tons per year emissions for each pollutant, broken down by equipment, for all months from July 2017 through January 2023.

10. On February 27, 2023, Targa personnel and AQB managers met to discuss the status of the requested revised calculations. On March 3, 2023, the Bureau received seven new spreadsheets regarding excess emissions calculations. On March 7, 2023, Targa personnel confirmed an error in the data sent for the AGI flare **[NMED Attachment 13].**

11. On April 19, 2023, Targa signed the first Amended Tolling Agreement for this case **[NMED Attachment 14].** The Amended Tolling Agreement extended the statute of limitations until May 31, 2024

12. On July 18, 2023, NMED issued the NOV for LUC-29885-2201 **[NMED Attachment 15].**

13. On August 2, 2023, an NMED assistant general counsel sent an email to Targa granting a request to extend the due date for the response to NOV LUC-29885-2201 from July 24, 2023, to September 15, 2023 **[NMED Attachment 16].**

14. On September 15, 2023, Targa submitted a response to NOV LUC-29885-2201 **[NMED Attachment 17].**

15. On December 21, 2023, NMED notified Targa that they would be required to submit a Root Cause Analysis (RCA) for each of their Facility's EERs between September 20, 2023, and December 21, 2023 **[NMED Attachment 18]**.

16. On January 25, 2024, Targa sent an Email request to extend the due date for the RCAs from February 19, 2024, to April 19, 2024 **[NMED Attachment 19]**.

17. On January 30, 2024, NMED granted Targa's RCA extension request from February 19, 2024, to April 19, 2024 **[NMED Attachment 20]**.

18. On April 19, 2024, Targa submitted the RCAs for LUC-29885-2201 **[NMED Attachment 21]**.

19. On April 22, 2024, an AQB enforcement specialist compiled a list of six hundred forty-seven (647) EERs from the Facility between June 1, 2023, and April 22, 2024. These EERs represent six hundred forty-seven (647) more instances for alleged violation #2 in LUC-29885-2201 and thirty-nine (39) more instances for alleged violation #3 **[NMED Attachment 22]**.

20. On April 26, 2024, the AQB enforcement specialist issued a PIN for the EERs between June 1, 2023, and April 22, 2024 **[NMED Attachment 23]**. The PIN initially counted these EERs as a new violation but now these events are included as additional instances of alleged violation #2.

21. On May 14, 2024, Targa signed the Second Amended Tolling Agreement **[NMED Attachment 24]**. The Second Amended Tolling Agreement extends the statute of limitations for this case to May 31, 2025.

22. On July 12, 2024, NMED sent Targa a letter notifying the company that the RCAs were not acceptable, and a fourth violation would be added to the NOV **[NMED Attachment 25]**.

23. On August 9, 2024, Targa submitted revised RCAs to NMED. **[NMED**

Attachment 26].

VIOLATIONS -LUC-29885-2201

Violation 1

Failure to operate the Red Hills Gas Processing Plant's flare units 1-EP-2, 2.5-EP-5, 2-EP-2a and 4-EP-2a within allowable emission limits for four regulated pollutants pursuant to NSR Permits 4310 M3-M5R1, Specific Conditions A106.A and A107.A.

Violation 1 Background

24. The allowable emission limits in tons per year for each permit are included in **NMED Attachment 27**.

Violation 1 Summary

25. Initially, Lucid had not submitted adequate records for the emissions of the four flares in this alleged violation. After an exchange of emails, Targa certified a list of the Facility's emissions from the four flares with data tables submitted on March 3, 2023. NMED has taken that data and calculated the amount of excess emissions and the extent to which the Facility exceeded their limits [**NMED Attachment 28**].

26. The tables from Targa show 226 claims of this violation. Each claim represents a month of exceedances for an individual pollutant.

Violation 2

Failure to operate the Red Hills Gas Processing Plant within allowable emission limits for four regulated pollutants pursuant to NSR Permits 4310 M3-M5R1, Specific Conditions A106.A and A107.A.

Violation 2 Background

27. After reviewing Lucid's records, Targa sent NMED corrected spreadsheets with excess emissions calculations for three thermal oxidizers (TOs), units EP-5, EP-6, and EP-8 [**NMED Attachment 29**].

28. The excess emissions events between June 1, 2023, and April 22, 2024, are subject to NSR Permit 4310-M5, Specific Conditions A106 and A107 [**NMED Attachment 30**]. Emitting units not listed in these tables are considered unpermitted.

Violation 2 Summary

29. Between August 1, 2021, and June 30, 2022, Lucid submitted 102 final emissions reports for events that occurred between November 11, 2018, and November 30, 2021. Lucid submitted no Affirmative Defense Demonstrations (ADDs) for these events. After acquisition, Targa found errors in Lucid's calculations. Targa corrected Lucid's excess emission calculations and sent NMED the corrections for these events on March 3, 2023. The new calculations showed 287 excess emissions events from the three thermal oxidizers between April 10, 2020, and January 29, 2023. Together, these events released 1,300,736 pounds of VOCs and 8,329 pounds of H₂S in excess emissions [**NMED Attachment 31**].

30. Between June 1, 2023, and April 22, 2024, Targa submitted 647 EERs for the Facility using AQBCR. In total, these events emitted 70,298.6 pounds of CO, 39,504.6 pounds of NO_x, 59,315.9 pounds of SO₂, 485,369.0 pounds of VOCs, and 3,348.03 pounds of H₂S [**NMED Attachment 22**].

31. Targa submitted 600 ADDs for the events between June 1, 2023, and April 22, 2024. Nearly all are listed as malfunctions or emergencies. These ADDs will not be accepted because according to 20.2.7.111.A (8), an ADD can only be accepted if the "excess emission was not part of a pattern indicative of inadequate design, operation, or maintenance." In addition, 20.2.7.113.A NMAC states, "An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, or careless or improper operation." NMED takes the Facility's record of at least one excess emissions event per day on

average as evidence that the Facility has a pattern of inadequate design, operation, or maintenance and that improper operation of the Facility exists.

Violation 3

Failure to submit excess emissions reports by the appropriate time frames is in violation of 20.2.7.110.A NMAC.

Violation 3 Background

32. In relevant part, 20.2.7.110.A NMAC states:

“A. The owner or operator of a source having an excess emission shall report the following information to the department on forms provided by the department. The department may authorize the submittal of such reports in electronic format.

- 1) Initial Report: the owner or operator shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission that includes all available information for each item in Subsection B of 20.2.7.110 NMAC.
- 2) Final Report: the owner or operator shall file a final report that contains specific and detailed information for each item in Subsection B of 20.2.7.110 NMAC, no later than ten (10) days after the end of the excess emission.”

Violation 3 Summary

33. Between August 1, 2021, and June 30, 2022, Lucid submitted 102 final EERs for excess emissions events through AQBCR that occurred between November 11, 2018, and November 30, 2021. On July 11, 2022, a Bureau Analyst issued a Post-Inspection Notification (“PIN”), identifying two potential violations – for exceeding allowable emission limits and for failing to submit initial or final excess emission reports according to required timelines. Lucid personnel received the PIN the same day.

34. The Bureau analyst determined from their review of excess emissions reports submitted by Lucid that 101 initial reports were submitted at least 1 day late (beyond one business day after discovery) and all 102 final reports were submitted at least 1 day late (beyond ten business days after the end of the excess emission). This determination was based on Lucid’s indication of event discovery date (for initial reports) and event end time (for final reports). Initial reports were

submitted a total of 401 days late. Final reports were submitted a total of 29,718 days late [NMED Attachment 32].

35. On April 22, 2024, a Bureau enforcement specialist found that between June 1, 2023, and June 22, 2024, Targa failed to submit 27 initial EERs and 12 final EERs within the defined regulatory timelines in 20.2.7.110 NMAC. These reports were submitted through AQBCR. Initial EERs were submitted a total of 111 days late. Final EERs were submitted a total of 206 days late. A PIN was sent to Targa on April 24, 2024 [NMED Attachment 22].

Violation 4

Failure to adequately meet the requirements of a Root Cause Analysis, and failure to provide an analysis describing the root cause of the excess emissions, including the identification of available corrective actions alternatives, the estimated cost of each alternative, and a thorough analysis of probable effectiveness of each alternative, in violation of NMAC 20.2.7.114.

Violation 4 Background

36. In relevant part, 20.2.7.114 NMAC states:

“A. The owner or operator of a source having an excess emission, upon written request of the department, shall prepare an analysis that uses appropriate analytical tools and contains the following information.

- 1) An analysis describing the root cause and contributing causes of the excess emission;
- 2) An analysis of the corrective actions implemented or available to reduce the likelihood of a recurrence of the excess emission resulting from the causes identified under Paragraph (1) of Subsection A of 20.2.7.114 NMAC, including, as applicable:
 - a) identification of implemented or available corrective action alternatives, such as changes in design, operation and maintenance;
 - b) the estimated cost associated with each corrective action alternative;
 - c) the probable effectiveness of each corrective action alternative;
 - d) if no corrective action alternatives are available, a clear explanation providing an adequate justification for that conclusion; and
 - e) if one or more corrective actions are identified, a schedule for implementation and progress reports.”

Violation 4 Summary

37. On December 21, 2023, NMED issued a letter to Targa requiring the company to submit a Root Cause Analyses (RCAs) for the Facility's excess emission events that had occurred between September 22, 2023, and December 21, 2023 [NMED Attachment 18]. The RCA was due on February 29, 2024.

38. On January 25, 2024, Targa sent a letter to NMED saying that they would not be able to make the February 19, 2024, deadline and requested an extension. On January 30, NMED issued a letter to Targa granting them an extension until April 19, 2024 [NMED Attachment 20].

39. Targa submitted their RCAs on April 19, 2024 [NMED Attachment 21].

40. NMED analyzed the RCAs with the help of an engineering firm and found that the RCAs did not include everything required by 20.2.7.114 NMAC. NMED sent a detailed letter outlining the inadequacies of the report to Targa on July 12, 2024 [NMED Attachment 25].

41. On August 9, 2024, Targa submitted revised RCAs [NMED Attachment 26]. The revised report was accepted by NMED.

EFFECTIVE DATE

42. The Effective Date of this Order shall be the date upon which this Order is signed by the New Mexico Secretary of Environment ("Secretary") or the Secretary's designee.

COMPLIANCE ORDER

43. Section 74-2-12(A) authorizes the Secretary to issue a compliance order requiring compliance with a regulation or permit.

44. Pursuant to the NMED Delegation Order dated February 19, 2024, the Bureau Chief may approve the commencement of a civil enforcement action with concurrence by the Secretary or his designee.

45. The Secretary or his designee has concurred with this enforcement action.

46. Targa is ordered to take the following corrective actions for the four violations outlined above.

Order 1:

Cease and desist excess emissions at the Red Hills Gas Processing Plant.

47. Targa shall cease and desist from excess emissions at the Red Hills Gas Processing Plant that do not qualify for an affirmative defense pursuant to 20.2.7.111 NMAC.

48. Pursuant to 20.2.7.111.A (8) NMAC and 20.2.7.112.A (3) NMAC, affirmative defenses for malfunctions will no longer be accepted from the Facility. The almost daily excess emissions events are indicative of inadequate design, operation, or maintenance. Affirmative defenses for malfunctions will be considered again at NMED's discretion.

Order 2:

Complete 16 projects, initiatives, and improvements as outlined in the August 9, 2024 letter to AQB.

49. Targa shall complete the 16 projects, initiatives, and improvements outlined in the letter that was sent to AQB on August 9, 2024, as part of their revised Root Cause Analyses (pages 9-13 of the pdf) [NMED Attachment 26]. The 16 proposed projects, initiatives, and improvements are listed in the table in paragraph 51.

50. Between the issuance of this ACO and July 1, 2025, Targa shall submit three letters certifying the completion of their corrective actions. Each letter will describe the new projects, initiatives and improvements completed to date and include at least one piece of evidence of completion (e.g. an invoice, workorder or hiring document) per corrective action. Each letter shall also address whether any excess emissions purported to be resolved by the action have occurred after completion.

51. The three letters' due dates and contents are as follows:

Due Date	Corrective Action
January 6, 2025	Foaming Mitigation - Inlet Filtration Improvements
January 6, 2025	Temporary Flares for Pipeline Blowdowns
January 6, 2025	Amine Reboiler Tube Bundle Replacements
January 6, 2025	Thermal Oxidizer Low Combustion Air Flow Switch Replacement
January 6, 2025	LPG Vapor to Overhead Compression
January 6, 2025	Flash Gas Vapor Recovery Compression (VRU)
January 6, 2025	AGI Acid Gas Pipeline
February 3, 2025	Liquid Handling System Improvements
February 3, 2025	AGI-2 Plant Commissioning and Reliability Improvements
February 3, 2025	Plant Control Logic Improvements
February 3, 2025	Process Equipment Specialist - Thermal Oxidizer Reliability Improvements
February 3, 2025	Field and Plant Gas Quality Monitoring Improvements
February 3, 2025	Plant Compression RTD and Vibration Transmitter Improvements
February 3, 2025	Electrical Protective Device Coordination Study
July 1, 2025	Condensate Tank ECD Replacement
July 1, 2025	Network Infrastructure Upgrades

52. A change in the above timeline can only occur with the approval of both Targa and NMED.

CIVIL PENALTY

53. Section 74-2-12(A) of the Act authorizes the Secretary to issue a compliance order assessing a civil penalty for a violation of the Act, the Regulations, or a condition of a permit issued under the Act.

54. Section 74-2-12(B) of the Act authorizes the Secretary to assess a civil penalty of up to fifteen thousand dollars (\$15,000.00) per day of noncompliance for each violation under Section 74-2-12(A).

55. For the violations described in this order, the Department has calculated and assessed a civil penalty of \$47,833,048.21 consistent with the NMED-AQB Civil Penalty Policy, with a maximum penalty of \$15,000.00 per violation per occurrence. A summary of the penalty calculations is attached [**NMED Attachment 33**].

ADMINISTRATIVE COMPLIANCE COSTS

56. The Department will invoice Targa in the amount of \$109,796.28 for administrative compliance costs incurred to date that are associated with this matter. To the extent that Targa does not resolve this matter within 30 days, including the payment of the civil penalty, Targa will continue to accrue additional administrative compliance cost up to \$2,500.00 per day, pursuant to Section 74-2-12.1(B).

NOTICE OF OPPORTUNITY TO ANSWER AND REQUEST A HEARING

57. Pursuant to Section 74-2-12(C) and 20.1.5.200 NMAC, Targa may request a public hearing by filing a written Request for Hearing with the hearing clerk no later than 30 days from receipt of this Order. The Request for Hearing shall include an Answer:

- a. Admitting or denying each alleged finding of fact. Any alleged finding of fact which is not specifically denied shall be deemed to be admitted. Targa may assert that it has insufficient knowledge of any alleged finding of fact, and such finding shall be deemed to be denied;
- b. Asserting any affirmative defense upon which Targa intends to rely. Any affirmative defense not asserted in the Answer, except an affirmative defense asserting lack of subject matter jurisdiction, shall be deemed to be waived;
- c. Signed under oath or affirmation that the information contained therein is true and correct to the best of the signatory's knowledge; and
- d. Attaching a copy of this Order.

58. This Order shall become final upon Targa's receipt of the Order unless Targa files a Request for Hearing and Answer as set forth above. Targa may file a Request for Hearing and Answer at:

Pam Jones, Paralegal/Hearing Clerk Office of Public Facilitation
New Mexico Environment Department
1190 St. Francis Drive
Santa Fe, NM 87505
Telephone: 505-660-4305
pamela.jones@env.nm.gov

59. The public hearing shall be governed by 20.1.5 NMAC.

SETTLEMENT CONFERENCE

60. Targa may confer with the Department regarding settlement at any time, but a settlement conference or request for a settlement conference shall not extend or waive the deadline

for filing a Request for Hearing and Answer. Targa may appear at a settlement conference *pro se* or through counsel. The Secretary or the Secretary's designee shall execute any settlement as a Stipulated Final Order. A Stipulated Final Order shall resolve all issues raised in this Order, shall bind all parties to this Order, and shall not be appealable. To confer regarding settlement, contact:

Kelly Villanueva, Assistant General Counsel
New Mexico Environment Department
121 Tijeras Avenue NE, Suite 1000
Albuquerque, NM 87102
Telephone: (505) 795-4383
kelly.villanueva@env.nm.gov

TERMINATION

61. This Order shall terminate upon approval of the Secretary or the Secretary's designee of a Stipulated Final Order.

NEW MEXICO ENVIRONMENT DEPARTMENT

BY: _____ **DATE:**
Cindy Hollenberg
Air Quality Bureau Chief
New Mexico Environment Department

CERTIFICATE OF SERVICE

I certify that on December 5, 2024, this Compliance Order was served by email and by

U.S. Mail Certified Mail to:

Sara W. Feucht
Director – ES&H Services
Targa Resources
811 Louisiana Street
Suite 2100
Houston, TX 77002
email: SFeucht@targaresources.com

Kelly Villanueva Assistant General Counsel
New Mexico Environment Department