

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0907-IWD-E **TCEQ ID:** RN100229905 **CASE NO.:** 33779

RESPONDENT NAME: INEOS Polyethylene North America

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: INEOS Polymers, 1230 Battleground Road, La Porte, Harris County</p> <p>TYPE OF OPERATION: Wastewater system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: C T Corporation System, Registered Agent, INEOS Polyethylene North America, 350 North St. Paul Street, Dallas, Texas 75201 Mr. Guy F. Hagen, SHE Manager, INEOS Polyethylene North America, 1230 Battleground Road, La Porte, Texas 77571 Mr. M. G. Herrin, Vice President, INEOS Polyethylene LLC, P.O. Box 1036, Warrenville, Illinois 60555 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 20, 2007</p> <p>Date of NOE Relating to this Case: May 22, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation for compliance with the water quality program.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total aluminum, pH, total zinc, hexachlorobenzene, and organic carbon [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000544000 Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$49,750</p> <p>Total Deferred: \$9,950 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$39,800</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has taken the following corrective measures:</p> <p>a) Installed a new wastewater treatment plant designed to reduce the level of aluminum in the wastewater effluent in January of 2007; and</p> <p>b) Returned to compliance with permitted effluent limits during May 2007.</p>

Additional ID No(s): WQ0000544000



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

DATES	Assigned	29-May-2007	Screening	7-Jun-2007	EPA Due	
	PCW	28-Jul-2007				

RESPONDENT/FACILITY INFORMATION			
Respondent	INEOS Polyethylene North America		
Reg. Ent. Ref. No.	RN100229905		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	33779	No. of Violations	2
Docket No.	2007-0907-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson
Multi-Media		EC's Team	EnforcementTeam 3
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes
A 109% enhancement is recommended based on the facility receiving one agreed order with denial, 16 Self Reported NOV's for the same or a similar violation, seven NOV's for violations that were not similar the to current violation, three audit letters, and one disclosure of violation.

Culpability Enhancement **Subtotal 4**

Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Reduction **Subtotal 5**

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

Notes
The Respondent returned to full compliance during May 2007.

Subtotal 6 **Subtotal 6**

Total EB Amounts *Capped at the Total EB \$ Amount

Approx. Cost of Compliance

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **\$**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY

Screening Date 7-Jun-2007

Docket No. 2007-0907-IWD-E

PCW

Respondent INEOS Polyethylene North America

Policy Revision 2 (September 2002)

Case ID No. 33779

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100229905

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	16	80%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 (number of judgments or consent decrees meeting criteria)	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 (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	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 (number of audits for which notices were submitted)	3	-3%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 109%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 109% enhancement is recommended based on the facility receiving one agreed order with denial, 16 Self Reported NOV's for the same or a similar violation, seven NOV's for violations that were not similar the to current violation, three audit letters, and one disclosure of violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 109%

Screening Date 7-Jun-2007	Docket No. 2007-0907-IWD-E	PCW
Respondent INEOS Polyethylene North America	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 33779	<i>PCW Revision May 25, 2007</i>	
Reg. Ent. Reference No. RN100229905		
Media [Statute] Water Quality		
Enf. Coordinator Harvey Wilson		
Violation Number	1	
Rule Cite(s)	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000544000 Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)	
Violation Description	Failed to comply with permit effluent limits (see attached table).	
Base Penalty		\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm					
	Release	Major	Moderate	Minor		Percent
	Actual			X		
Potential				25%		

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes
A simplified model was used to evaluate concentration of metals in the discharge to determine whether the amounts of pollutants exceeded levels protective of human health or the environment. Total organic carbon, pH, and flow were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

Four quarterly events are recommended: three quarterly events at Outfall 001 and one quarterly event at Outfall 002.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$146"/>	Violation Final Penalty Total <input type="text" value="\$19,900"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$19,900"/>	

Economic Benefit Worksheet

Respondent INEOS Polyethylene North America
Case ID No. 33779
Reg. Ent. Reference No. RN100229905
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,500	1-Mar-2006	1-May-2007	1.2	\$146	n/a	\$146

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required is the day the noncompliance started. The Final Date is the date the Respondent returned to compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$146

Screening Date 7-Jun-2007

Docket No. 2007-0907-IWD-E

PCW

Respondent INEOS Polyethylene North America

Policy Revision 2 (September 2002)

Case ID No. 33779

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN100229905

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000544000
Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="50%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

OR

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was used to evaluate concentration of metals in the discharge to determine whether the amounts of pollutants exceeded levels protective of human health or the environment. Hexachlorobenzene, pH, and flow were also considered. As a result of these discharges, 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.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	<input type="text"/>
	monthly	<input checked="" type="text" value="x"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input type="text"/>

Violation Base Penalty

Three monthly events are recommended at Outfall 001.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: INEOS Polyethylene North America
Case ID No.: 33779
Reg. Ent. Reference: RN100229905
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

See Violation # 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

INEOS Polyethylene North America
Docket No. 2007-0907-IWD-E
RN100229905
TPDES Permit No. WQ0000544000

Effluent Violations Table, Violation #1

Month/Year	Outfall 001 Total Aluminum 58.6 lbs/day Max	Outfall 001 pH concentration 5.0 SU Min	Outfall 001 Total Zinc 3.0 lbs/day Avg	Outfall 001 Total Zinc 6.35 lbs/day Max	Outfall 002 Total Organic Carbon 55 mg/L Max
March, 2006	C	C	C	C	189
May, 2006	C	4.68	C	C	C
July, 2006	63.0	C	C	C	C
August, 2006	61.3	C	C	C	C
October, 2006	93.3	C	3.2	11.22	C

C = compliant lbs/day = pounds per day mg/l = milligrams per liter SU = standard unit

Effluent Violations Table, Violation #2

Month/Year	Outfall 001 Total Aluminum 27.7 lbs/day Avg	Outfall 001 Total Aluminum 58.6 lbs/day Max	Outfall 001 pH concentration 9.0 SU Max	Outfall 001 Hexachloro-benzene 0.00109 lbs/day Avg	Outfall 001 Hexachloro-benzene 0.00236 lbs/day Max
November, 2006	49.0	165.8	C	C	C
December, 2006	77.5	191.1	C	0.11	0.11
January, 2007	50.5	137.25	9.3	C	C

35	10/16/2003	(295592)
36	10/28/2003	(250872)
37	11/18/2003	(295595)
38	12/19/2003	(295594)
39	12/29/2003	(251591)
40	12/30/2003	(251548)
41	02/17/2004	(295577)
42	04/15/2004	(295580)
43	05/18/2004	(295582)
44	05/25/2004	(267790)
45	06/14/2004	(295584)
46	07/13/2004	(295586)
47	08/04/2004	(281406)
48	08/04/2004	(281526)
49	08/12/2004	(279120)
50	08/18/2004	(352196)
51	08/18/2004	(352198)
52	08/25/2004	(265435)
53	08/25/2004	(262251)
54	08/25/2004	(261912)
55	08/29/2004	(267795)
56	08/31/2004	(291127)
57	09/15/2004	(352197)
58	10/13/2004	(352195)
59	10/22/2004	(291668)
60	10/26/2004	(292663)
61	11/11/2004	(287420)
62	11/15/2004	(440858)
63	11/15/2004	(352199)
64	11/15/2004	(352201)
65	12/17/2004	(352200)
66	12/28/2004	(343452)
67	01/31/2005	(348874)
68	02/14/2005	(381879)
69	02/15/2005	(381882)
70	04/06/2005	(376073)
71	04/13/2005	(381880)
72	04/13/2005	(381881)
73	05/19/2005	(419716)
74	05/21/2005	(453789)
75	06/14/2005	(419715)
76	07/26/2005	(374603)
77	08/19/2005	(440854)
78	08/19/2005	(440859)
79	08/25/2005	(405927)
80	09/20/2005	(440855)
81	10/21/2005	(440856)
82	10/21/2005	(440857)
83	11/08/2005	(433181)
84	11/17/2005	(468477)
85	02/24/2006	(468475)
86	03/15/2006	(455257)
87	04/20/2006	(468476)
88	05/22/2006	(498228)
89	05/26/2006	(460212)
90	06/12/2006	(498229)
91	06/15/2006	(498231)
92	07/06/2006	(498230)
93	08/10/2006	(520243)
94	09/07/2006	(520244)
95	09/27/2006	(530968)
96	10/09/2006	(520245)
97	11/27/2006	(544557)
98	01/03/2007	(544558)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	06/30/2002	(158640)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/18/2003	(10801)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 115, SubChapter D 115.352(1)[G]			
Description:	Failure to repair valves that were found to be leaking within 15 days.			
Date:	06/30/2003	(158641)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/29/2003	(251591)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 116, SubChapter G 116.715(a) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)			
Rqmt Prov:	PA TCEQ FLEXIBLE PERMIT #49823, SC #1, 2			
Description:	Failure to meet the Demonstration Criteria that the unauthorized emissions could not have been avoided by good design, operation, and maintenance practices. Failure to operate the flare with a flame present at all times.			
Date:	12/30/2003	(251548)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)(11) 30 TAC Chapter 116, SubChapter G 116.715(a)			
Rqmt Prov:	PERMIT TCEQ FLEXIBLE PERMIT #49823, SC #2			
Description:	Failure to identify the actions taken to correct the emissions event and minimize the emissions as required by 30 TAC 101.201.			
Date:	04/30/2004	(295582)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2004	(295586)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/29/2004	(267795)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 116, SubChapter G 116.711(7) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	Failed to prevent unauthorized emissions during an emissions event.			
Date:	11/30/2004	(352200)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/04/2005	(349161)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(1) 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	(Data Maintenance File Review) Failed to prevent unauthorized emissions during an avoidable emissions event.			
Date:	08/01/2005	(374603)	Classification:	Moderate
Self Report?	NO			
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)[G] 5C THC Chapter 382, SubChapter A 382.085(b)			
Description:	BP Solvay failed to prevent an avoidable emissions event.			
Self Report?	NO		Classification:	Minor
Citation:	30 TAC Chapter 101, SubChapter A 101.20(1)			

Description:	30 TAC Chapter 115, SubChapter D 115.352(4) 30 TAC Chapter 116, SubChapter B 116.115(c) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1) Failure to seal open ended lines (8 open ended lines).	Classification:	Moderate
Self Report?	NO		
Citation:	30 TAC Chapter 101, SubChapter A 101.20(1) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT DDD 60.562-2(a) 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(2)		
Description:	Failure to Properly seal an open ended line with a plug. Plug was leaking greater than 10,000 ppm.		
Date:	08/31/2005 (440855)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005 (440856)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2005 (468477)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2006 (468476)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2006 (498229)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006 (520243)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2006 (520244)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/27/2006 (530968)		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	10/31/2006 (544557)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006 (544558)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006 (498231)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		

Description: Failure to meet the limit for one or more permit parameter
Date: 1/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)G
Description: Failure to meet the limit on one or more permit parameter

F. Environmental audits.

Notice of Intent Date: 04/22/2002 (33189)
Disclosure Date: 10/29/2002

Viol. Classification: Minor
Citation: 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV
Description: Failure to adequately monitor valves for leaks.

Notice of Intent Date: 04/15/2004 (274719)
No DOV Associated

Notice of Intent Date: 04/27/2005 (396190)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
INEOS POLYETHYLENE NORTH
AMERICA
RN100229905

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-0907-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding INEOS Polyethylene North America ("INEOS") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and INEOS appear before the Commission and together stipulate that:

1. INEOS owns and operates a wastewater system at 1230 Battleground Road in La Porte, Harris County, Texas (the "Facility").
2. INEOS has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and INEOS agree that the Commission has jurisdiction to enter this Agreed Order, and that INEOS is subject to the Commission's jurisdiction.
4. INEOS received notice of the violations alleged in Section II ("Allegations") on or about May 27, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by INEOS of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Forty-Nine Thousand Seven Hundred Fifty Dollars (\$49,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). INEOS has paid Thirty-Nine Thousand Eight Hundred Dollars (\$39,800) of the administrative penalty and Nine Thousand Nine Hundred Fifty Dollars (\$9,950) is deferred contingent upon INEOS' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If INEOS fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require INEOS to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and INEOS have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that INEOS has taken the following corrective measures:
 - a. Installed a new wastewater treatment plant designed to reduce the level of aluminum in the wastewater effluent in January of 2007; and
 - b. Returned to compliance with permitted effluent limits during May 2007.
10. 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 INEOS has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, INEOS is alleged to have:

Failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0000544000 Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on March 20, 2007, as indicated in the tables below.

Month/Year	Outfall 001 Total Aluminum 58.6 lbs/day Max	Outfall 001 pH concentration 5.0 SU Min	Outfall 001 Total Zinc 3.0 lbs/day Avg	Outfall 001 Total Zinc 6.35 lbs/day Max	Outfall 002 Total Organic Carbon 55 mg/L Max
March, 2006	C	C	C	C	189
May, 2006	C	4.68	C	C	C
July, 2006	63.0	C	C	C	C
August, 2006	61.3	C	C	C	C
October, 2006	93.3	C	3.2	11.22	C

C = compliant lbs/day = pounds per day mg/L = milligrams per Liter SU = standard unit

Month/Year	Outfall 001 Total Aluminum 27.7 lbs/day Avg	Outfall 001 Total Aluminum 58.6 lbs/day Max	Outfall 001 pH concentration 9.0 SU Max	Outfall 001 Hexachlorobenzene 0.00109 lbs/day Avg	Outfall 001 Hexachlorobenzene 0.00236 lbs/day Max
November, 2006	49.0	165.8	C	C	C
December, 2006	77.5	191.1	C	0.11	0.11
January, 2007	50.5	137.25	9.3	C	C

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that INEOS pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and INEOS' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: INEOS Polyethylene North America, Docket No. 2007-0907-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon INEOS. INEOS is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

3. This Agreed Order, issued by the Commission, shall not be admissible against INEOS in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to INEOS, or three days after the date on which the Commission mails notice of the Order to INEOS, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Soder

For the Executive Director

1/23/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

A.L.C. Smith

Signature

12/12/2007

Date

DAVID L. BRACKETT

Name (Printed or typed)
Authorized Representative of
INEOS Polyethylene North America

SITE MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

