

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0715-AIR-E **TCEQ ID:** RN100229905 **CASE NO.:** 37755
RESPONDENT NAME: INEOS USA LLC

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 checked="" 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 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 Polyethylene North America La Porte Plant, 1230 Battleground Road, La Porte, Harris County</p> <p>TYPE OF OPERATION: Polyethylene plant</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 September 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. James Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Chock Ganapathy, Air Pollution Control Engineer, INEOS USA LLC, 1230 Battleground Road, La Porte, Texas 77571 Ms. Lori Gualandri, HSE Manager, INEOS USA LLC, 1230 Battleground Road, La Porte, Texas 77571 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: February 25, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 8, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions. Specifically, during an emissions event on December 5, 2008, the Respondent failed to prevent the loss of a flame on the polyethylene flare (Emissions Point No. PE-FLARE), caused by a decrease in production of the Plant which resulted in the vent gas flow rate being lower than normal and an abnormal steam/hydrocarbon ratio and the subsequent release of 2,796 pounds of volatile organic compounds over a 10.4 hour period. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [30 TEX. ADMIN. CODE §§ 101.20(1) and 116.715(a), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2), TEX. HEALTH & SAFETY CODE § 382.085 (b), and Flexible Permit No. 48923 Special Conditions Nos. 2 and 3].</p>	<p>Total Assessed: \$6,900</p> <p>Total Deferred: \$1,380 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,520</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" 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>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to maintain the vent gas flow and the steam/hydrocarbon ratio which caused the flame on a flare to extinguish on December 5, 2008; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): HG0665E



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-May-2009	Screening	4-Jun-2009	EPA Due	
	PCW	8-Jun-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	INEOS USA LLC		
Reg. Ent. Ref. No.	RN100229905		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	37755	No. of Violations	1
Docket No.	2009-0715-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Juliet Morgan
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 4
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	38.0% Enhancement	Subtotals 2, 3, & 7	\$1,900
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Notes: The penalty was enhanced due to four similar NOV's and one 1660 Order. Penalty reduction due to two NOIs.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$185
Approx. Cost of Compliance \$4,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$6,900
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,900
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,380
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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	\$5,520
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Screening Date 4-Jun-2009

Docket No. 2009-0715-AIR-E

PCW

Respondent INEOS USA LLC

Policy Revision 2 (September 2002)

Case ID No. 37755

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100229905

Media [Statute] Air

Enf. Coordinator Juliet Morgan

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)	4	20%
	Other written NOVs	0	0%
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)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
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) 38%

>> 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

The penalty was enhanced due to four similar NOV's and one 1660 Order. Penalty reduction due to two NOIs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 38%

Screening Date 4-Jun-2009
 Respondent INEOS USA LLC
 Case ID No. 37755

Docket No. 2009-0715-AIR-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100229905

Media [Statute] Air

Enf. Coordinator Juliet Morgan

Violation Number

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and 116.715(a), 40 Code of Federal Regulations § 60.18(c)(2), Tex. Health & Safety Code § 382.085(b), Flexible Permit No. 49823 Special Condition Nos. 2 and 3

Violation Description Failed to prevent unauthorized emissions, as documented during an investigation conducted on February 25, 2009. Specifically, during an emissions event on December 5, 2008, the Respondent failed to prevent the loss of a flame on the polyethylene flare (Emissions Point No. PE-FLARE), caused by a decrease in production of the Plant which resulted in the vent gas flow rate being lower than normal and an abnormal steam/hydrocarbon ratio and the subsequent release of 2,796 pounds of volatile organic compounds over a 10.4 hour period. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> 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 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

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input checked="" type="checkbox"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty

One quarterly event is recommended for the event that occurred on December 5, 2008.

Good Faith Efforts to Comply

Reduction

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

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

Violation Subtotal

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 USA LLC
Case ID No. 37755
Reg. Ent. Reference No. RN100229905
Media Air
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
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Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	5-Dec-2008	8-Nov-2009	0.93	\$93	n/a	\$93

Notes for DELAYED costs

Estimated cost of changes to maintenance policies and procedures to prevent future emissions events. The date required is the date of the emissions event. The final date is the expected date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$93

Compliance History Report

Customer/Respondent/Owner-Operator: CN602817884 INEOS USA LLC Classification: AVERAGE Rating: 2.69
 Regulated Entity: RN100229905 INEOS POLYETHYLENE NORTH AMERICA LA PORTE PLANT Classification: AVERAGE Site Rating: 3.67

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
	AIR OPERATING PERMITS	PERMIT	1439
	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
	WASTEWATER	PERMIT	WQ0000544000
	WASTEWATER	PERMIT	TX0006033
	AIR NEW SOURCE PERMITS	PERMIT	49823
	AIR NEW SOURCE PERMITS	PERMIT	18968
	AIR NEW SOURCE PERMITS	PERMIT	19593
	AIR NEW SOURCE PERMITS	PERMIT	28146
	AIR NEW SOURCE PERMITS	PERMIT	33637
	AIR NEW SOURCE PERMITS	PERMIT	41293
	AIR NEW SOURCE PERMITS	PERMIT	42369
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG0665E
	AIR NEW SOURCE PERMITS	AFS NUM	4820100004
	AIR NEW SOURCE PERMITS	REGISTRATION	89308
	AIR NEW SOURCE PERMITS	REGISTRATION	87828
	AIR NEW SOURCE PERMITS	REGISTRATION	84619
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	57482
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30704
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980625958
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011097

Location: 1230 INDEPENDENCE PKWY S, LA PORTE, TX, 77571

TCEQ Region: REGION 12 - HOUSTON
 Date Compliance History Prepared: August 24, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 04, 2004 to June 04, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Juliet Morgan Phone: (512) 239-0735

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator?

OWN	Innovene Polyethylene North America
OWNOPR	AJV Polymers, L.L.C. dba BP Solvay Polyethylene North America
OWNOPR	INEOS USA LLC
OWNOPR	Ineos Polyethylene North America
OWN	Shell Chemical LP
OWNOPR	BP Pipelines (North America) Inc.
4. If Yes, who was/were the prior owner(s)/operator(s) ?

OWNOPR	BP Polyethylene North America
	N/A
OWN	AJV Polymers, L.L.C. dba BP Solvay Polyethylene North America
OWN	BP SOLVAY POLYETHYLENE NORTH AMERICA
5. When did the change(s) in owner or operator occur?

	01/06/2005	N/A	
		OWN	BP SOLVAY POLYETHYLENE NORTH AMERI

6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/26/2004

ADMINORDER 2004-0294-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 2 PERMIT

Description: As co-owners and operators of the Plant, Solvay HDPE and AJV Polymers are alleged to have failed to prevent 8,366 pounds of unauthorized hexane emission from EPN PE-A702 during an avoidable emission event lasting approximately 45 minutes on April 30, 2003.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

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

1	08/12/2004	(279120)
2	08/25/2004	(261912)
3	08/25/2004	(262251)
4	08/25/2004	(265435)
5	08/29/2004	(267795)
6	05/21/2005	(453789)
7	07/26/2005	(374603)
8	06/27/2007	(559989)
9	08/16/2007	(566785)
10	11/05/2007	(597414)
11	01/03/2008	(612956)
12	01/25/2008	(601088)
13	05/08/2008	(653471)
14	05/16/2008	(639634)
15	05/19/2008	(639676)
16	05/20/2008	(639746)
17	05/21/2008	(653586)
18	10/27/2008	(689401)
19	10/27/2008	(689493)
20	05/08/2009	(736690)

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

Date: 08/29/2004 (267795)

Self Report? NO

Classification: Moderate

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: 04/04/2005 (349161)

Self Report? NO

Classification: Moderate

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)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)

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)

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)
 Description: Failure to seal open ended lines (8 open ended lines).
 Self Report? NO Classification: Moderate

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: 11/06/2007 (597414)
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 115, SubChapter H 115.783(5)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 49823, Special Condition 9.E. PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 1.A. OP
 O-1439, Special Condition 12 OP
 Description: INEOS failed to seal open-ended valves or lines with a cap, blind flange, plug or a second valve.
 (CATEGORY B19.g.(8))
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 49823, Special Condition 11.A.(3) PERMIT.
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 12 OP
 Description: INEOS failed to conduct the second set of sampling for the months of February 2006 and April 2006.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.206(i)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 1.A. OP
 O-1439, Special Condition 7.A. OP
 Description: INEOS failed to prevent the operation of the firewater engines between the hours of 6 am and noon.
 (CATEGORY B19.g.(8))
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter T 106.452(2)(A)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 13 OP
 Description: INEOS failed to prevent the abrasive blasting usage rate from exceeding the one (1) ton per day limit.
 (CATEGORY B19.g.(1))
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)
 30 TAC Chapter 116, SubChapter G 116.715(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(1)
 49823, Special Condition 3 PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 12 OP
 Description: INEOS failed to prevent the visible emissions from the flare for more than five minutes in any two-hour period.
 (CATEGORY B19.g.(1))
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 49823, Special Condition 3 PERMIT
 5C THC Chapter 382, SubChapter D 382.085(b)
 O-1439, Special Condition 12 OP

Description: INEOS failed to prevent the net heating value heating value falling below 300 Btu/scf.
(CATEGORY B19.g.(1))

F. Environmental audits.

Notice of Intent Date: 04/27/2005 (396190)

No DOV Associated

Notice of Intent Date: 01/29/2008 (637195)

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 USA LLC
RN100229905

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0715-AIR-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 USA LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a polyethylene plant at 1230 Battleground Road in La Porte, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 13, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Nine Hundred Dollars (\$6,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Five Hundred Twenty Dollars (\$5,520) of the

- administrative penalty and One Thousand Three Hundred Eighty Dollars (\$1,380) is deferred contingent upon the Respondent's 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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 10. 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.
 11. 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 of the Plant, the Respondent is alleged to have failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and 116.715(a), 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2), TEX. HEALTH & SAFETY CODE § 382.085 (b), and Flexible Permit No. 48923 Special Conditions Nos. 2 and 3, as documented during an investigation conducted on February 25, 2009. Specifically, during an emissions event on December 5, 2008, the Respondent failed to prevent the loss of a flame on the polyethylene flare (Emissions Point No. PE-FLARE), caused by a decrease in production of the Plant which resulted in the vent gas flow rate being lower than normal and an abnormal steam/hydrocarbon ratio and the subsequent release of 2,796 pounds of volatile organic compounds over a 10.4 hour period. Since these emissions could have been avoided by better operational practices, the emissions are not subject to an affirmative defense under 30 TEX. ADMIN. CODE § 101.222(b)(1-11)

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's 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 USA LLC, Docket No. 2009-0715-AIR-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. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement procedures designed to maintain the vent gas flow and the steam/hydrocarbon ratio which caused the flame on a flare to extinguish on December 5, 2008; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

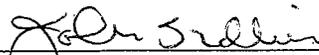
Air Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this 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.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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



For the Executive Director

9/3/2009
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.



Signature

7/27/2009
Date

Lori Gualandri
Name (Printed or typed)
Authorized Representative of
INEOS USA LLC

HSE 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.

