

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0490-AIR-E **TCEQ ID:** RN104620083 **CASE NO.:** 37426
RESPONDENT NAME: INEOS Americas 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 Phenol, 2001 Gulfway Drive, Port Arthur, Jefferson County</p> <p>TYPE OF OPERATION: Chemical manufacturing 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: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3420; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. James Talton, Production Manager, INEOS Americas LLC, P.O. Box 548, Port Arthur, Texas 77641 Mr. Ron Deakins, Vice President of Operations, INEOS Americas LLC, P.O. Box 548, Port Arthur, Texas 77641 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 14, 2008</p> <p>Date of NOV/NOE Relating to this Case: February 10, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to prevent unauthorized emissions during Incident No. 105194. Specifically, the following unauthorized emissions were released from the Cumene Unit and Tank 2135 during a planned shut-down activity that started on March 28, 2008 and ended on May 15, 2008: 3,339.28 pounds ("lbs") of benzene, 622.74 lbs of di-isopropylbenzene, 871.30 lbs of cumene, 161.41 lbs of volatile organic compounds, and 29.71 lbs of propane. Since Incident No. 105194 was not properly reported, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met [Air Permit No. 82132, Special Condition No. 1, Air Permit No. 5215A, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 116.715(a), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to properly report Incident No. 105194. Specifically, the final report for the planned shut-down activity was due to be submitted by May 29, 2008, however, it was not submitted until July 2, 2008 [30 TEX. ADMIN. CODE § 101.211(b) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> | <p>Total Assessed: \$12,120</p> <p>Total Deferred: \$2,424 <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: \$9,696</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 26, 2009, the Respondent updated the Emissions Event Reporting Procedure to include the reporting requirements for maintenance, start-up, and shut-down activities.</p> |

Additional ID No(s): JEA006F



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

| | | | | | |
|-----------------|-------------|------------------|------------|----------------|------------|
| Assigned | 30-Mar-2009 | | | | |
| PCW | 6-Apr-2009 | Screening | 8-Apr-2009 | EPA Due | 7-Nov-2009 |

| | |
|--|--------------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | INEOS Americas LLC |
| Reg. Ent. Ref. No. | RN104620083 |
| Facility/Site Region | 10-Beaumont |
| Major/Minor Source | Major |

| | | | |
|--------------------------------|-----------------|------------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 37426 | No. of Violations | 2 |
| Docket No. | 2009-0490-AIR-E | Order Type | 1660 |
| Media Program(s) | Air | Government/Non-Profit | No |
| Multi-Media | | Enf. Coordinator | Rebecca Johnson |
| | | EC's Team | Enforcement Team 5 |
| Admin. Penalty \$ Limit | Minimum \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$10,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 30.0% Enhancement **Subtotals 2, 3, & 7** **\$3,030**

Notes Penalty enhancement due to one NOV issued for same or similar violations and one agreed order without a denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,010**

Economic Benefit 0.0% Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$10
Approx. Cost of Compliance \$200
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$12,120**

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$12,120**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$12,120**

DEFERRAL 20.0% Reduction **Adjustment** **-\$2,424**

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 **\$9,696**

Screening Date 8-Apr-2009

Docket No. 2009-0490-AIR-E

PCW

Respondent INEOS Americas LLC

Policy Revision 2 (September 2002)

Case ID No. 37426

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104620083

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

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) | 1 | 5% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | 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 | 1 | 25% |
| 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) | 0 | 0% |
| | 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) 30%

>> **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

Penalty enhancement due to one NOV issued for same or similar violations and one agreed order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 8-Apr-2009 **Docket No.** 2009-0490-AIR-E **PCW**
Respondent INEOS Americas LLC *Policy Revision 2 (September 2002)*
Case ID No. 37426 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN104620083
Media [Statute] Air
Enf. Coordinator Rebecca Johnson

Violation Number 1
Rule Cite(s) Air Permit No. 82132, Special Condition No. 1, Air Permit No. 6215A, Special Condition No. 1, 30 Tex. Admin. Code §§ 116.115(c) and 116.715(a), and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to prevent unauthorized emissions during Incident No. 105194. Specifically, the following unauthorized emissions were released from the Cumene Unit and Tank 2135 during a planned shut-down activity that started on March 28, 2008 and ended on May 15, 2008: 3,389.28 pounds ("lbs") of benzene, 622.74 lbs of di-isopropylbenzene, 871.30 lbs of cumene, 161.41 lbs of volatile organic compounds, and 29.71 lbs of propene. Since incident No. 105194 was not properly reported, the demonstration criteria for an affirmative defense in 30 Tex. Admin. Code § 101.222 were not met.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

| | | | | | |
|----|-----------|-------|----------|-------|---------|
| OR | Harm | | | | Percent |
| | Release | Major | Moderate | Minor | |
| | Actual | | x | | |
| | Potential | | | | 50% |

>> Programmatic Matrix

| | | | | | |
|--|---------------|-------|----------|-------|---------|
| | Falsification | Major | Moderate | Minor | Percent |
| | | | | | 0% |

Matrix Notes Human health or the environment has been exposed to a significant amount of pollutants that did not exceed protective levels as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | x |
| quarterly | |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$10,000

Two monthly events are recommended based on the activity that occurred from March 28, 2008 through May 15, 2008.

Good Faith Efforts to Comply 10.0% Reduction \$1,000

| | | |
|---------------|------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | x |
| N/A | | (mark with x) |

Notes The Respondent completed corrective actions on February 26, 2009.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 **Violation Final Penalty Total** \$12,000

This violation Final Assessed Penalty (adjusted for limits) \$12,000

Economic Benefit Worksheet

Respondent: INEOS Americas LLC
Case ID No.: 37426
Reg. Ent. Reference No.: RN104620083
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 |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|------|-----|-----|-----|
| 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) | | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Economic benefit for this violation is included in Violation No. 2.

Avoided Costs

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

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| 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

\$0

TOTAL

\$0

| | | | | |
|--------------------------------|---|-------------------|-----------------|------------------------------------|
| Screening Date | 8-Apr-2009 | Docket No. | 2009-0490-AIR-E | PCW |
| Respondent | INEOS Americas LLC | | | Policy Revision 2 (September 2002) |
| Case ID No. | 37426 | | | PCW Revision October 30, 2008 |
| Reg. Ent. Reference No. | RN104620083 | | | |
| Media [Statute] | Air | | | |
| Enf. Coordinator | Rebecca Johnson | | | |
| Violation Number | 2 | | | |
| Rule Cite(s) | 30 Tex. Admin. Code § 101.211(b) and Tex. Health & Safety Code § 382.065(b) | | | |
| Violation Description | Failed to properly report Incident No. 105194. Specifically, the final report for the planned shut-down activity was due to be submitted by May 29, 2008, however, it was not submitted until July 2, 2008. | | | |
| Base Penalty | | | | \$10,000 |

>> Environmental, Property and Human Health Matrix

| | | | | | |
|-----------|------------------|-------|----------|-------|----------------|
| OR | Harm | | | | |
| | | Major | Moderate | Minor | |
| | Release | | | | |
| | Actual | | | | Percent |
| | Potential | | | | 0% |

>> Programmatic Matrix

| | | | | | |
|----------------------|--|-------|----------|-------|----------------|
| | | Major | Moderate | Minor | |
| Falsification | | | | X | Percent |
| | | | | | 1% |

Matrix Notes
Less than 30% of the reporting requirements were not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | |
| semiannual | |
| annual | |
| single event | X |

Violation Base Penalty \$100

One single event is recommended based on the one final report that was submitted late.

Good Faith Efforts to Comply Reduction \$10

| | | |
|---------------|------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | X |
| N/A | | (mark with x) |

Notes
The Respondent completed corrective actions on February 26, 2009.

Violation Subtotal \$90

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$10 Violation Final Penalty Total \$120

This violation Final Assessed Penalty (adjusted for limits) \$120

Economic Benefit Worksheet

Respondent: INEOS Americas LLC
Case ID No.: 37426
Reg. Ent. Reference No.: RN104620083
Media: Air
Violation No.: 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Cost | Date Required | Final Date | Yrs. | Interest Saved | Onetimes Costs | EB Amount |
|---|---------------|------------|------|----------------|----------------|-----------|
| Item Description No commas or \$ | | | | | | |

Delayed Costs

| Item Cost | Date Required | Final Date | Yrs. | Interest Saved | Onetimes Costs | EB Amount |
|--------------------------|---------------|-------------|-------------|----------------|----------------|-----------|
| Equipment | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | \$200 | 29-May-2008 | 26-Feb-2009 | 0.75 | \$0 | \$10 |
| 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) | | | 0.00 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs to prevent unauthorized emissions and revise the Emissions Event Reporting Procedure to include the reporting requirements for maintenance, start-up, and shut-down activities. The date required is the date the final report for Incident No. 105194 was due to be submitted and was not. The final date is the date corrective actions were completed.

Avoided Costs

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

| Item Cost | Date Required | Final Date | Yrs. | Interest Saved | Onetimes 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

\$200

TOTAL:

\$10

Compliance History Report

Customer/Respondent/Owner-Operator: CN602805236 INEOS Americas LLC Classification: AVERAGE Rating: 1.57
Regulated Entity: RN104620083 INEOS PHENOL Classification: AVERAGE Site Rating: 0.14

| | | | |
|---------------|---|----------------------------------|--------------|
| ID Number(s): | AIR NEW SOURCE PERMITS | PERMIT | 5215A |
| | AIR NEW SOURCE PERMITS | PERMIT | 83831 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 81386 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 81309 |
| | AIR NEW SOURCE PERMITS | PERMIT | 82132 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 82456 |
| | AIR NEW SOURCE PERMITS | REGISTRATION | 85575 |
| | AIR NEW SOURCE PERMITS | ACCOUNT NUMBER | JEA006F |
| | AIR NEW SOURCE PERMITS | AFS NUM | 4824500714 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | EPA ID | TXR000065730 |
| | INDUSTRIAL AND HAZARDOUS WASTE GENERATION | SOLID WASTE REGISTRATION # (SWR) | 87775 |
| | AIR OPERATING PERMITS | PERMIT | 2954 |

Location: 2001 GULFWAY DR, PORT ARTHUR, TX, 77640

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: April 06, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 06, 2004 to April 06, 2009

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

Name: Rebecca Johnson Phone: (361) 825-3420

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? INEOS Americas LLC
4. If Yes, who was/were the prior owner(s)/operator(s) ? Chevron Phillips Chemical Company LP
5. When did the change(s) in owner or operator occur? 06/01/05
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: 11/24/2005

ADMINORDER 2003-0646-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: 18568 PERMIT

Description: Failure to report the VOC concentration from the exhaust of the 2001 air stripping testing system and/or the corresponding pounds of strippable VOC per gallon of cooling water for tower 169.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)

30 TAC Chapter 116, SubChapter B 116.115(c)

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

Rqmt Prov: 18568 PERMIT

18568, Special Condition 17B PERMIT

Description: Failed to comply with permitted VOC emission limits and repair/maintain equipment associated with cooling tower 169.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)

40 CFR Chapter 61, SubChapter C, PT 61, SubPT FF 61.355(a)(1)(I)

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

Description: Failure to determine the annual benzene waste generated at Cooling Towers 169 and 294.

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 | 03/30/2006 | (454184) |
| 2 | 07/31/2006 | (487629) |
| 3 | 12/22/2006 | (516525) |
| 4 | 12/29/2006 | (513277) |
| 5 | 05/16/2007 | (553915) |
| 6 | 07/24/2007 | (565647) |
| 7 | 11/29/2007 | (599504) |
| 8 | 03/28/2008 | (573827) |
| 9 | 02/10/2009 | (686181) |

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

Date: 05/16/2007 (553915)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(c)

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

Description: Failure to submit a final record in a timely manner.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
INEOS AMERICAS LLC
RN104620083**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0490-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 Americas 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 chemical manufacturing plant at 2001 Gulfway Drive in Port Arthur, Jefferson 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 February 15, 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 Twelve Thousand One Hundred Twenty Dollars (\$12,120) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand Six Hundred Ninety-Six Dollars (\$9,696) of the administrative penalty and Two Thousand Four Hundred Twenty-Four Dollars

- (\$2,424) 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 recognizes that on February 26, 2009, the Respondent updated the Emissions Event Reporting Procedure to include the reporting requirements for maintenance, start-up, and shut-down activities.
 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 the Respondent 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 Plant, the Respondent is alleged to have:

1. Failed to prevent unauthorized emissions during Incident No. 105194, in violation of Air Permit No. 82132, Special Condition No. 1, Air Permit No. 5215A, Special Condition No. 1, 30 TEX. ADMIN. CODE §§ 116.115(c) and 116.715(a), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 14, 2008. Specifically, the following unauthorized emissions were released from the Cumene Unit and Tank 2135 during a planned shut-down activity that started on March 28, 2008 and ended on May 15, 2008: 3,339.28 pounds ("lbs") of benzene, 622.74 lbs of di-isopropylbenzene, 871.30 lbs of cumene, 161.41 lbs of volatile organic compounds, and 29.71 lbs of propane. Since Incident No. 105194 was not properly reported, the demonstration criteria for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 were not met.
2. Failed to properly report Incident No. 105194, in violation of 30 TEX. ADMIN. CODE § 101.211(b) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 14, 2008. Specifically, the final report for the planned shut-down activity was due to be submitted by May 29, 2008, however, it was not submitted until July 2, 2008.

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 Americas LLC, Docket No. 2009-0490-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. 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.
3. 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.
4. 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.
5. 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.

INEOS Americas LLC
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Quinn

For the Executive Director

10/15/2009

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.

Ron Deaking

Signature

6/8/2009

Date

Ron Deaking

Name (Printed or typed)
Authorized Representative of :
INEOS Americas LLC

VP Operations

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.