EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1121-AIR-E **TCEQ ID:** RN100229905 **CASE NO.:** 36209

RESPONDENT NAME: INEOS USA LLC dba INEOS Polyethylene North America

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
X AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
__WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: INEOS Polyethylene North America La Porte Plant, 1230 Battleground Road, Deer Park, Harris County

TYPE OF OPERATION: Polyethylene manufacturing plant

SMALL BUSINESS: ___ Yes __X__ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 22, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2134; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Chock Ganapathy, Air Pollution Control Engineer, INEOS USA LLC, 1230 Battleground Road, Deer Park, Texas 77571

Ms. Lori Gualandri, SSHE Manager, INEOS USA LLC, 1230 Battleground Road, Deer Park, Texas 77571

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 21, 2008 **Date of NOV/NOE Relating to this Case:** May 21, 2008 (NOE) **Background Facts:** This was a routine investigation. **AIR** Failure to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on February 2, 2008, during a three hour emission event, the Respondent failed to close an isolation valve and a bleed valve in the ethylene sampling system in the metering yard, and 1,006.96 pounds of gaseous ethylene was released. Flexible permits are based on an emission cap for each pollutant from all combined emission points, and do not allow for unauthorized emissions. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b) [30 TEX. ADMIN. CODE § 116.715(a), Flexible Air Permit No. 49823, Special Condition No. 2, and TEX. HEALTH & SAFETY CODE § 382.085(b)].	**Total Assessed:** $4,450 **Total Deferred:** $890 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $3,560 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant: a. On February 6, 2008, updated the isolation list to include verifying locking out all applicable valves prior to maintenance work; b. On April 4, 2008, improved communication between supplier, control room, operation personnel, and security to avoid duration of emission events; and c. On April 29, 2008, reinforced the requirement to ensure equipment being locked out/tagged out has all sources of energy isolated and zero energy is achieved before completing lock out/tag out with operations personnel.

Additional ID No(s).: HG0665E

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) *PCW Revision June 12, 2008*

TCEQ

DATES					
Assigned	7-Jul-2008				
PCW	10-Aug-2008	Screening	9-Jul-2009	EPA Due	15-Feb-2009

RESPONDENT/FACILITY INFORMATION

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

CASE INFORMATION

Enf./Case ID No.	36209	No. of Violations	1
Docket No.	2008-1121-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 103.0% Enhancement *Subtotals 2, 3, & 7* $2,575

Notes: The Respondent has received six Notices of Violation ("NOVs") for same or similar violations, has received 18 NOVs for not same violations, has been issued two Agreed Orders containing a denial of liability, and has submitted three letters notifying of an audit.

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* $625

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

Total EB Amounts $60
Approx. Cost of Compliance $5,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* $4,450

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount $4,450

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* $4,450

DEFERRAL 20.0% Reduction *Adjustment* -$890

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $3,560

Screening Date 9-Jul-2009 **Docket No.** 2008-1121-AIR-E **PCW**

Respondent INEOS USA LLC dba INEOS Polyethylene North Americ

Policy Revision 2 (September 2002)

Case ID No. 36209

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100229905

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

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*)	6	30%
	Other written NOVs	18	36%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	2	40%
	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 judgements 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*)	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) 103%

>> 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 Respondent has received six Notices of Violation ("NOVs") for same or similar violations, has received 18 NOVs for not same violations, has been issued two Agreed Orders containing a denial of liability, and has submitted three letters notifying of an audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 103%

Screening Date 9-Jul-2009 **Docket No.** 2008-1121-AIR-E **PCW**

Respondent INEOS USA LLC dba INEOS Polyethylene North America *Policy Revision 2 (September 2002)*

Case ID No. 36209 *PCW Revision June 12, 2008*

Reg. Ent. Reference No. RN100229905

Media [Statute] Air

Enf. Coordinator Suzanne Walrath

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.715(a), Flexible Air Permit No. 49823, Special Condition No. 2, and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to prevent the unauthorized release of air contaminants into the atmosphere. Specifically, on February 2, 2008, during a three hour emission event, the Respondent failed to close an isolation valve and a bleed valve in the ethylene sampling system in the metering yard, and 1006.96 pounds of gaseous ethylene was released. Flexible permits are based on an emission cap for each pollutant from all combined emission points, and do not allow for unauthorized emissions. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 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 $7,500

$2,500

Violation Events

Number of Violation Events 1 — 1 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,500

One quarterly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction $625

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

Notes: The Respondent achieved compliance on April 29, 2008.

Violation Subtotal $1,875

Economic Benefit (EB) for this violation

Estimated EB Amount $60

Statutory Limit Test

Violation Final Penalty Total $4,450

This violation Final Assessed Penalty (adjusted for limits) $4,450

Economic Benefit Worksheet

Respondent INEOS USA LLC dba INEOS Polyethylene North America
Case ID No. 36209
Reg. Ent. Reference No. RN100229905
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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)	$5,000	2-Feb-2008	29-Apr-2008	0.24	$60	n/a	$60

Notes for DELAYED costs: These are estimated costs for implementing improved plant procedures to prevent future emission events due to the same causes as the emission event that occurred on February 2, 2008, beginning on the date of the event, and ending on the date compliance was achieved.

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 $5,000

TOTAL $60

Compliance History

Customer/Respondent/Owner-Operator:	CN602817884	INEOS USA LLC	Classification: AVERAGE	Rating: 1.82
Regulated Entity:	RN100229905	INEOS POLYETHYLENE NORTH AMERICA LA PORTE PLANT	Classification: AVERAGE	Site Rating: 1.09

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
AIR OPERATING PERMITS	PERMIT	1439
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
AIR OPERATING PERMITS	PERMIT	1439
AIR OPERATING PERMITS	PERMIT	1439
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG0665E
WASTEWATER	PERMIT	WQ0000544000
WASTEWATER	PERMIT	TX0006033000
WASTEWATER	PERMIT	TPDES0006033
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	28351
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	ACCOUNT NUMBER	HGA069Q
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 BATTLEGROUND RD, DEER PARK, TX, 77536 Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 24, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 24, 2003 to July 24, 2008

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

Name: Suzanne Walrath Phone: 512/239-2134

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 of the site during the compliance period? Yes
3. If Yes, who is the current owner?

   Innovene Polyethylene North America
   AJV Polymers, L.L.C. dba BP Solvay Polyethylene North America

   INEOS USA LLC
   BP Polyethylene North America

   Ineos Polyethylene North America
   BP Pipelines (North America) Inc.
4. if Yes, who was/were the prior owner(s)?

   Solvay Polymers, Inc.
   BP SOLVAY POLYETHYLENE NORTH AMERICA
   AJV Polymers, L.L.C. dba BP Solvay

   Polyethylene North America
5. When did the change(s) in ownership occur?

   3/1/2004
   01/06/2005
   07/27/2005

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 emmission from EPN PE-A702 during an avoidable emission event lasing approximately 45 minutes on April 30, 2003.

Effective Date: 04/03/2008 ADMINORDER 2007-0907-IWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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	08/14/2003	(295588)
2	08/28/2003	(126119)
3	08/29/2003	(118998)
4	08/30/2003	(143411)
5	09/17/2003	(295590)
6	10/16/2003	(295592)
7	10/28/2003	(250872)
8	11/18/2003	(295595)
9	12/19/2003	(295594)
10	12/29/2003	(251591)
11	12/30/2003	(251548)
12	02/17/2004	(295577)
13	04/15/2004	(295580)
14	05/18/2004	(295582)
15	05/25/2004	(267790)
16	06/14/2004	(295584)
17	07/13/2004	(295586)
18	08/04/2004	(281406)
19	08/04/2004	(281526)
20	08/12/2004	(279120)
21	08/18/2004	(352196)
22	08/18/2004	(352198)
23	08/25/2004	(265435)
24	08/25/2004	(262251)
25	08/25/2004	(261912)
26	08/29/2004	(267795)
27	08/31/2004	(291127)
28	09/15/2004	(352197)
29	10/13/2004	(352195)
30	10/22/2004	(291668)
31	10/26/2004	(292663)
32	11/11/2004	(287420)
33	11/15/2004	(440858)
34	11/15/2004	(352199)
35	11/15/2004	(352201)
36	12/17/2004	(352200)
37	12/28/2004	(343452)
38	01/31/2005	(348874)
39	02/14/2005	(381879)
40	02/15/2005	(381882)
41	04/06/2005	(376073)

42	04/13/2005	(381880)
43	04/13/2005	(381881)
44	05/19/2005	(419716)
45	05/21/2005	(453789)
46	06/14/2005	(419715)
47	07/26/2005	(374603)
48	08/19/2005	(440854)
49	08/19/2005	(440859)
50	08/25/2005	(405927)
51	09/20/2005	(440855)
52	10/21/2005	(440856)
53	10/21/2005	(440857)
54	11/08/2005	(433181)
55	11/17/2005	(468477)
56	02/24/2006	(468475)
57	03/15/2006	(455257)
58	04/20/2006	(468476)
59	05/22/2006	(498228)
60	05/26/2006	(460212)
61	06/12/2006	(498229)
62	06/15/2006	(498231)
63	07/06/2006	(498230)
64	08/10/2006	(520243)
65	09/07/2006	(520244)
66	09/27/2006	(530968)
67	10/09/2006	(520245)
68	11/27/2006	(544557)
69	01/03/2007	(544558)
70	02/26/2007	(575370)
71	03/08/2007	(575371)
72	05/22/2007	(554486)
73	05/23/2007	(575373)
74	06/14/2007	(575372)
75	06/20/2007	(575374)
76	06/27/2007	(559989)
77	07/18/2007	(575375)
78	08/10/2007	(575376)
79	08/16/2007	(566785)
80	09/20/2007	(607558)
81	09/20/2007	(607560)
82	10/19/2007	(607559)
83	11/05/2007	(597414)
84	11/20/2007	(619529)
85	12/20/2007	(619530)
86	01/03/2008	(612956)
87	01/25/2008	(601088)
88	03/06/2008	(672053)
89	03/06/2008	(672054)
90	04/17/2008	(672055)
91	04/17/2008	(672056)
92	05/08/2008	(653471)
93	05/16/2008	(639634)
94	05/19/2008	(639676)
95	05/20/2008	(639746)
96	05/21/2008	(653586)
97	06/04/2008	(682016)

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

Date 12/29/2003 (251591)

Self Report? NO Classification: Moderate

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)

Self Report? NO Classification: Moderate

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 identy the actions taken to correct the emissions event and minimize the emissions as

required by 30 TAC 101.201.

Date 04/30/2004 (295582)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date 06/30/2004 (295586)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

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 11/30/2004 (352200)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

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 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)

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)

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)

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)

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)
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)
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)
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)
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)
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)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2007 (575370)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007 (575373)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2007 (607559)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
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)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT 49823, Special Condition 9.E.
OP O-1439, Special Condition 1.A.
OP O-1439, Special Condition 12
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)
5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT 49823, Special Condition 11.A.(3)
OP O-1439, Special Condition 12
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)

Rqmt Prov: OP O-1439, Special Condition 1.A.
OP O-1439, Special Condition 7.A.

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)

Rqmt Prov: OP O-1439, Special Condition 13

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

Rqmt Prov: PERMIT 49823, Special Condition 3
OP O-1439, Special Condition 12

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

Rqmt Prov: PERMIT 49823, Special Condition 3
OP O-1439, Special Condition 12

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

Date 06/04/2008 (682016)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to prevent the unauthorized discharge of plastic fines.

F. Environmental audits.

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

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	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	
INEOS USA LLC DBA INEOS	§	**TEXAS COMMISSION ON**
POLYETHYLENE NORTH AMERICA	§	
RN100229905	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-1121-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 dba INEOS Polyethylene North America ("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 manufacturing plant at 1230 Battleground Road in Deer Park, 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 26, 2008.

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 Four Thousand Four Hundred Fifty Dollars ($4,450) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Five Hundred Sixty Dollars ($3,560) of the administrative penalty and Eight Hundred Ninety Dollars ($890) 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 the Respondent implemented the following corrective measures at the Plant:

   a. On February 6, 2008, updated the isolation list to include verifying locking out all applicable valves prior to maintenance work;

   b. On April 4, 2008, improved communication between supplier, control room, operation personnel, and security to avoid duration of emission events; and

   c. On April 29, 2008, reinforced the requirement to ensure equipment being locked out/tagged out has all sources of energy isolated and zero energy is achieved before completing lock out/tag out with operations personnel.

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 failed to prevent the unauthorized release of air contaminants into the atmosphere, in violation of 30 TEX. ADMIN. CODE § 116.715(a), Flexible Air Permit No. 49823, Special Condition No. 2, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on April 21, 2008. Specifically, on February 2, 2008, during a three hour emission event, the Respondent failed to close an isolation valve and a bleed valve in the ethylene sampling system in the metering yard, and 1006.96 pounds of gaseous ethylene was released. Flexible permits are based on an emission cap for each pollutant from all combined emission points, and do not allow for unauthorized emissions. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the Respondent failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b).

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 dba INEOS Polyethylene North America, Docket No. 2008-1121-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 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 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 Date 12/8/2008

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.

_____ 9/18/08
Signature Date

Lori Gualandri SSHE Manager
Name (Printed or typed) Title
Authorized Representative of
INEOS USA LLC dba INEOS Polyethylene North America

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.