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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0261-AIR-E TCEQ ID: RN104579487 CASE NO.: 39162
RESPONDENT NAME: INEOS NOVA 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: Texas City Chemical Plant, 2800 Farm-to-Market Road 519 East, Texas City, Galveston County</p> <p>TYPE OF OPERATION: Chemical 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 July 26, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Jimmy Nolan, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-6634; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Ms. Diana Firpi, Senior Environmental Engineer, INEOS NOVA LLC, 2800 Farm-to-Market Road 519 East, Texas City, Texas 77592 Ms. Cathy Culpepper, Gulf Coast Regional Manager, INEOS NOVA LLC, 2800 Farm-to-Market Road 519 East, Texas City, Texas 77592 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: December 17, 2009</p> <p>Date of NOV/NOE Relating to this Case: February 5, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions during an event that occurred on October 6 – 25, 2009. Specifically, the Respondent released 7,241 pounds of unauthorized benzene from the Styrene No. 2 Cooling Tower (Emission Point No. CT-251) in the Ethyl Benzene Unit over a four hundred fifty-three hour and thirty minute period (Incident No. 131120). The event occurred when multiple tubes in a heat exchanger failed due to corrosion. Since prompt action was not taken to minimize the emissions, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 8978/PSD-TX-459M3, Special Condition 12A].</p>	<p>Total Assessed: \$10,250</p> <p>Total Deferred: \$2,050 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,100</p> <p>Total Paid to General Revenue: \$4,100</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 the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On January 1, 2010, completely retubed the heat exchanger in the Ethyl Benzene Unit with upgraded metallurgy;</p> <p>b. On January 19, 2010, updated the lab system to flag high sample results;</p> <p>c. On January 20, 2010, completed awareness training for operators and technical staff on the impact of sample results for the heat exchanger; and</p> <p>d. On January 20, 2010, prepared and trained all personnel on new standing orders to procedurally document responses to sample results.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): GBA007G

Attachment A
Docket Number: 2010-0261-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: INEOS NOVA LLC

Payable Penalty Amount: Eight Thousand Two Hundred Dollars (\$8,200)

SEP Amount: Four Thousand One Hundred Dollars (\$4,100)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Location of SEP: Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Houston-Galveston AERCO* for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration’s (“FHWA”) Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

INEOS NOVA LLC

Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	8-Feb-2010	Screening	16-Feb-2010	EPA Due	
	PCW	10-Feb-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	INEOS NOVA LLC		
Reg. Ent. Ref. No.	RN104579487		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	39162	No. of Violations	1
Docket No.	2010-0261-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Kirk Schoppe
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	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	30.0% Enhancement	Subtotals 2, 3, & 7	\$1,500
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Notes: The penalty was enhanced due to three similar NOVs and one 1660 style Agreed Order. The penalty was reduced due to five NOAs.

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	\$1,250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$80
 Approx. Cost of Compliance: \$5,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	95.2%	Adjustment	\$5,000
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: The Executive Director recommends an upward adjustment due to the significant amount of benzene released alleged in violation no. 1.

Final Penalty Amount	\$10,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,250
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,050
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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	\$8,200
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Screening Date 16-Feb-2010

Docket No. 2010-0261-AIR-E

PCW

Respondent INEOS NOVA LLC

Policy Revision 2 (September 2002)

Case ID No. 39162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104579487

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

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)	3	15%
	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 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)	5	-5%
	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%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 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

The penalty was enhanced due to three similar NOVs and one 1660 style Agreed Order. The penalty was reduced due to five NOAs.

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

Screening Date 16-Feb-2010

Docket No. 2010-0261-AIR-E

PCW

Respondent INEOS NOVA LLC

Policy Revision 2 (September 2002)

Case ID No. 39162

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104579487

Media [Statute] Air

Enf. Coordinator Kirk Schoppe

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 101.20(3), Tex. Health & Safety Code § 382.085(b), and New Source Review ("NSR") Permit No. 8978/PSD-TX-459M3, Special Condition 12A

Violation Description

Failed to prevent unauthorized emissions during an event that occurred on October 6-25, 2009, as documented during an investigation conducted on December 17, 2009. Specifically, the Respondent released 7,241 pounds of unauthorized benzene from the Styrene No. 2 Cooling Tower (Emission Point No. CT-251) in the Ethyl Benzene Unit over a four hundred fifty-three hour and thirty minute period (Incident No. 131120). The event occurred when multiple tubes in a heat exchanger failed due to corrosion. Since prompt action was not taken to minimize the emissions, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 19 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One monthly event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

The Respondent completed the corrective actions on January 20, 2010 and the NOE is dated February 5, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$80

Violation Final Penalty Total \$10,250

This violation Final Assessed Penalty (adjusted for limits) \$10,250

Economic Benefit Worksheet

Respondent INEOS NOVA LLC
Case ID No. 39162
Reg. Ent. Reference No. RN104579487
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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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	\$500	6-Oct-2009	20-Jan-2010	0.29	\$7	n/a	\$7
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	6-Oct-2009	20-Jan-2010	0.29	\$73	n/a	\$73

Notes for DELAYED costs

Estimated costs for additional oversight and management practices designed to ensure proper operation and maintenance practices are followed and unit upgrades are made. The Date Required is based on the date of the emissions event and the Final Date is the date of compliance.

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

\$5,500

TOTAL

\$80

Compliance History Report

Customer/Respondent/Owner-Operator: CN603252479 INEOS NOVA LLC Classification: AVERAGE Rating: 11.85
Regulated Entity: RN104579487 TEXAS CITY CHEMICAL PLANT Classification: AVERAGE Site Rating: 5.08

ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87677
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000063255
	AIR NEW SOURCE PERMITS	AFS NUM	4816700148
	AIR NEW SOURCE PERMITS	REGISTRATION	76281
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX459M3
	AIR NEW SOURCE PERMITS	PERMIT	1176
	AIR NEW SOURCE PERMITS	PERMIT	47273
	AIR NEW SOURCE PERMITS	PERMIT	8978
	AIR NEW SOURCE PERMITS	REGISTRATION	89172
	AIR NEW SOURCE PERMITS	REGISTRATION	88672
	AIR NEW SOURCE PERMITS	REGISTRATION	87143
	AIR NEW SOURCE PERMITS	REGISTRATION	85137
	AIR OPERATING PERMITS	PERMIT	2849
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	87677
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	GBA007G

Location: 2800 FM 519 E, TEXAS CITY, TX, 77592

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: February 09, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 09, 2005 to February 09, 2010

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

Name: Kirk Schoppe Phone: 239 - 0489

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? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 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.

N/A

Classification: Moderate

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

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

Rqmt Prov: Special Condition No. 14 PERMIT

TCEQ Permit No. 8978 PERMIT

Description: Failure to prevent unauthorized emissions during an April 27, 2005 emissions event.

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.)

N/A	1	08/24/2007	(573388)
	2	10/11/2007	(567345)
	3	01/24/2008	(595534)
	4	03/24/2008	(637920)
	5	07/21/2008	(686766)
	6	04/01/2009	(703633)
	7	05/27/2009	(746252)
	8	09/03/2009	(749805)
	9	12/14/2009	(781168)
	10	01/29/2010	(789999)
	11	02/05/2010	(786902)

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

Date: 01/24/2008 (595534)

N/A Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 NSR 8978, SC15E PERMIT
 O-2849, STC 18 OP

Description: Failed to seal open-ended valves or lines with a cap, bind flange, plug or a second valve.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter H 115.783(5)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 NSR 8978, SC15E PERMIT
 O-2849, STC18 OP

Description: Failed to seal open-ended valves or lines with a cap, bind flange, plug or a second valve.(HRVOC)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(2)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 O-2849, STC 7 OP

Description: Failed to maintain records of Nox, CO and O2 data for STY-HS101

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter H 115.764(d)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)

O-02849, STC 1H OP
Description: Failed to take strippable VOC sample from cooling tower water with an interval of 20 days.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.782(c)(1)(B)(i)(III)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-02849 OP
Description: Failure to repair a valve subject to HRVOC.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-2849, STC 1H OP
Description: Failed to conduct the annual calibration on the cooling tower flow meter.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.764(d)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
O-02849, STC OP
Description: Failed to take strippable VOC sample from cooling tower water with an interval of 20 days.

Date: 04/03/2009 (703633)

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.782(b)(1)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions 1.A. OP
Description: Failure to perform a first attempt at repairing a leaking component within one business day of being detected. Ineos Nova submitted a deviation report dated January 29, 2008 stating that there were three deviations of this requirement between July 1, 2007 and December 31, 2007.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
8978 SC 13E PERMIT
Permit O-02849, Special Condition 18 OP
Permit O-02849, Special Condition 1A OP
Description: Failure to maintain a seal on open ended lines. Ineos Nova submitted deviation reports dated January 29, 2008 and July 30, 2008 stating that there were a total of sixty-seven deviations of this requirement between July 1, 2007 and June 30, 2008.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Terms and Conditions 1.A. OP
Description: Failure to ensure that the emergency generators are not operated during the hours from 6 a.m. and 12 p.m. Ineos Nova submitted a deviation report dated January 29, 2008 stating that there were six instances during the July 1, 2007 through December 31, 2007 reporting period in which generators were operated between 6 a.m. and noon.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.165(a)(7)
5C THSC Chapter 382 382.085(b)
O-02849 OP
Description: Failure to certify the July 1, 2007-December 31, 2007 semiannual deviation

report. This constitutes a violation of 30 TAC 122.165(a)(7) which requires reports required by the permit to be submitted with a certification of accuracy and completeness.

Date: 12/14/2009 (781168)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.310(f)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition #1A OP

Description: Conducted maintenance work on the styrene emergency generator, EPN: EMERGENSTY, between 6 a.m. and 12 p.m. (Category C4 violation)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
30 TAC Chapter 115, SubChapter H 115.783(5)
30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition #13E PERMIT
Special Terms and Condition #18 OP
Special Terms and Condition #1A OP

Description: Forty-three (43) OELs found during the compliance period. (Category C10 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(c)(1)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition #14(B) OP
Special Terms and Condition #1A OP

Description: Failure to submit the HON Subpart G semi-annual report from June through December 2008. (Category B3 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter C 122.210(a)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition #18 OP

Description: Failure to incorporate multiple Permit By Rules (PBRs): 106.262, 106.473, and 106.478 through Off-Permit Notification into the Title V Permit. (Category B4 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(b)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.168(b)(1)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.174(a)(1)
5C THSC Chapter 382 382.085(b)
Special Condition #13(F) PERMIT
Special Condition #14(A) PERMIT
Special Terms and Condition #18 OP
Special Terms and Condition #1A OP

Description: Failure to monitor the LDAR components in the tank farm in the fourth quarter of 2008. (Category B1 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.163(c)(1)
5C THSC Chapter 382 382.085(b)
Special Terms and Condition #1A OP

Description: Failure to repair the pump, PP-206A, seal within 15 calendar days after the leak was found. (Category B1 violation)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(A)
30 TAC Chapter 122, SubChapter B 122.165(a)(7)
5C THSC Chapter 382 382.085(b)

General Terms and Conditions OP

Description: An accurate semi-annual deviation report for the period July 1, 2008 through December 31, 2008 was not submitted until April 23, 2009. (Category B3 violation)

F. Environmental audits.

05/05/2005
(509648)

Notice of Intent Date:

No DOV Associated

06/27/2007
(574118)

Notice of Intent Date:

No DOV Associated

05/08/2008
(682217)

Notice of Intent Date:

No DOV Associated

11/04/2008
(708230)

Notice of Intent Date:

No DOV Associated

04/14/2009
(748625)

Notice of Intent Date:

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.

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 NOVA LLC
RN104579487**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2010-0261-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 NOVA 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 plant at 2800 Farm-to-Market Road 519 East in Texas City, Galveston 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 10, 2010.
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 Ten Thousand Two Hundred Fifty Dollars (\$10,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Thousand One Hundred Dollars (\$4,100) of the administrative penalty and Two Thousand Fifty Dollars (\$2,050) 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. Four Thousand One Hundred Dollars (\$4,100) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project.

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 has implemented the following corrective measures at the Plant:
 - a. On January 1, 2010, completely retubed the heat exchanger in the Ethyl Benzene Unit with upgraded metallurgy;
 - b. On January 19, 2010, updated the lab system to flag high sample results;
 - c. On January 20, 2010, completed awareness training for operators and technical staff on the impact of sample results for the heat exchanger; and
 - d. On January 20, 2010, prepared and trained all personnel on new standing orders to procedurally document responses to sample results.
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 unauthorized emissions during an event that occurred on October 6 – 25, 2009, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 101.20(3), TEX. HEALTH & SAFETY CODE § 382.085(b), and New Source Review Permit No. 8978/PSD-TX-459M3, Special Condition 12A, as documented during an investigation conducted on December 17, 2009. Specifically, the Respondent released 7,241 pounds of unauthorized benzene from the Styrene No. 2 Cooling Tower (Emission Point No. CT-251) in the Ethyl Benzene Unit over a four hundred fifty-three hour and thirty minute period (Incident No. 131120). The event occurred when multiple tubes in a heat exchanger failed due to corrosion. Since prompt action was not taken to minimize the emissions, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

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 NOVA LLC, Docket No. 2010-0261-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 Respondent shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Four Thousand One Hundred Dollars (\$4,100) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
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

Date 3/2/2011

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

Date 2/9/11

CATHY CULPEPPER

Name (Printed or typed)
Authorized Representative of
INEOS NOVA LLC

GULF COAST REGIONAL 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.

Attachment A
Docket Number: 2010-0261-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: INEOS NOVA LLC

Payable Penalty Amount: Eight Thousand Two Hundred Dollars (\$8,200)

SEP Amount: Four Thousand One Hundred Dollars (\$4,100)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Location of SEP: Texas Air Quality Control Region 216 – Houston-Galveston

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to *Houston-Galveston AERCO* for the **Clean Cities/Clean Vehicles Program** as set forth in an agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration’s (“FHWA”) Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions of buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

INEOS NOVA LLC
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.