

Executive Summary – Enforcement Matter – Case No. 62633
INEOS NITRILES USA LLC
RN100210038
Docket No. 2022-0873-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

INEOS Green Lake Plant, 13050 State Highway 185 North near Port Lavaca, Calhoun County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: October 28, 2022

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,287

Total Paid to General Revenue: \$2,287

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 20, 2022 through July 8, 2022

Date(s) of NOE(s): July 8, 2022

**Executive Summary – Enforcement Matter – Case No. 62633
INEOS NITRILES USA LLC
RN100210038
Docket No. 2022-0873-PWS-E**

Violation Information

Failed to comply with the maximum contaminant level of 0.080 milligrams per liter for total trihalomethanes based on the locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 365 days, return to compliance with the maximum contaminant level for total trihalomethanes based on the locational running annual average; and
- b. Within 380 days, submit written certification to demonstrate compliance with a.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Corinna Willis, Enforcement Division, Enforcement Team 4, MC 219, (512) 239-2564; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: David Spacek, President, INEOS NITRILES USA LLC, P.O. Box 659, Port Lavaca, Texas 77979-0659

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	11-Jul-2022	Screening	15-Jul-2022	EPA Due	30-Sep-2022
	PCW	11-Jul-2022				

RESPONDENT/FACILITY INFORMATION	
Respondent	INEOS NITRILES USA LLC
Reg. Ent. Ref. No.	RN100210038
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION		No. of Violations	1
Enf./Case ID No.	62633	Order Type	Findings
Docket No.	2022-0873-PWS-E	Government/Non-Profit	No
Media Program(s)	Public Water Supply	Enf. Coordinator	Daniel Brill
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,250
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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	83.0% Adjustment	Subtotals 2, 3, & 7	\$1,037
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Notes: Enhancement for three NOVs with the same/similar violations, two NOVs with dissimilar violations, two agreed orders containing a denial of liability, and one agreed order without a denial of liability. Reduction for one notice of intent to conduct an audit.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$779
 Estimated Cost of Compliance: \$5,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,287
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$2,287
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,287
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$2,287
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Screening Date 15-Jul-2022

Docket No. 2022-0873-PWS-E

PCW

Respondent INEOS NITRILES USA LLC

Policy Revision 5 (January 28, 2021)

Case ID No. 62633

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100210038

Media Public Water Supply

Enf. Coordinator Daniel Brill

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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	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 (<i>number of judgments or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
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) 83%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with the same/similar violations, two NOVs with dissimilar violations, two agreed orders containing a denial of liability, and one agreed order without a denial of liability. Reduction for one notice of intent to conduct an audit.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 83%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 83%

Screening Date 15-Jul-2022
Respondent INEOS NITRILES USA LLC
Case ID No. 62633
Reg. Ent. Reference No. RN100210038
Media Public Water Supply
Enf. Coordinator Daniel Brill

Docket No. 2022-0873-PWS-E

PCW

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts at Site 1 were 0.120 mg/L for the fourth quarter of 2021, 0.105 mg/L for the first quarter of 2022, and 0.088 mg/L for the second quarter of 2022.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual		x	
Potential					

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Exceeding the MCL for TTHM caused persons served by the Facility to be exposed to a significant amount of contaminants which did not exceed levels protective of human health.

Adjustment \$3,750

\$1,250

Violation Events

Number of Violation Events: 1 272 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,250

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	

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

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$779

Violation Final Penalty Total \$2,288

This violation Final Assessed Penalty (adjusted for limits) \$2,288

Economic Benefit Worksheet

Respondent INEOS NITRILES USA LLC
Case ID No. 62633
Reg. Ent. Reference No. RN100210038
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	31-Dec-2021	22-Mar-2024	2.22	\$37	\$742	\$779
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
 The other (as needed) cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for TTHM, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 (This section is currently blank)

Approx. Cost of Compliance	\$5,000	TOTAL	\$779
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Compliance History Report

Compliance History Report for CN605075381, RN100210038, Rating Year 2021 which includes Compliance History (CH) components from September 1, 2016, through August 31, 2021.

Customer, Respondent, or Owner/Operator: CN605075381, INEOS NITRILES USA LLC **Classification:** SATISFACTORY **Rating:** 3.60

Regulated Entity: RN100210038, INEOS GREEN LAKE PLANT **Classification:** SATISFACTORY **Rating:** 3.60

Complexity Points: 38 **Repeat Violator:** NO

CH Group: 05 - Chemical Manufacturing

Location: 13050 State Highway 185 North near Port Lavaca, Calhoun County, Texas

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER CB0034B

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0290051

AIR NEW SOURCE PERMITS ACCOUNT NUMBER CB0034B

AIR NEW SOURCE PERMITS AFS NUM 4805700013

AIR NEW SOURCE PERMITS REGISTRATION 49524

AIR NEW SOURCE PERMITS REGISTRATION 82172

AIR NEW SOURCE PERMITS REGISTRATION 92479

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 32164

UNDERGROUND INJECTION CONTROL PERMIT WDW164

UNDERGROUND INJECTION CONTROL PERMIT WDW452

WASTEWATER PERMIT WQ0002181000

AIR EMISSIONS INVENTORY ACCOUNT NUMBER CB0034B

INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD000751172

INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50143

AIR OPERATING PERMITS PERMIT 1284

AIR NEW SOURCE PERMITS PERMIT 6289

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX76M7

AIR NEW SOURCE PERMITS REGISTRATION 76678

AIR NEW SOURCE PERMITS EPA PERMIT PSDTX76M8

AIR NEW SOURCE PERMITS PERMIT 83776

PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 36304

UNDERGROUND INJECTION CONTROL PERMIT WDW163

UNDERGROUND INJECTION CONTROL PERMIT WDW165

UNDERGROUND INJECTION CONTROL PERMIT WDW453

WASTEWATER EPA ID TX0077577

POLLUTION PREVENTION PLANNING ID NUMBER P00059

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 32164

Compliance History Period: September 01, 2016 to August 31, 2021 **Rating Year:** 2021 **Rating Date:** 09/01/2021

Date Compliance History Report Prepared: July 11, 2022

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: July 11, 2017 to July 11, 2022

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Daniel Brill

Phone: (512) 239-2564

Site and Owner/Operator History:

- 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) Who is the current owner/operator?
BP Chemicals Inc. OWNER OPERATOR since 1/1/1800
O&D USA Inc. OWNER OPERATOR since 8/30/2004
INEOS USA LLC OWNER OPERATOR since 1/1/1800
INEOS US Chemicals Company OWNER OPERATOR since 1/1/1900
VISTRON CORPORATION OWNER OPERATOR since 8/23/2001
INEOS NITRILES USA LLC OWNER OPERATOR since 1/1/2016
Innovene USA LLC OWNER since 6/16/2007
- 4) Who was/were the prior owner(s)/operator(s)?
Newton Manufacturing, LLC, OWNER, 11/6/2018 to 6/4/2020
Novus International, Inc., OWNER OPERATOR, 12/21/2015 to 11/5/2018

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 02/04/2019 ADMINORDER 2017-1788-WDW-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 331, SubChapter D 331.64(g)
Rqmt Prov: PP VIII(H) Monitoring and Testing PERMIT
 PP XI(A) Additional Requirements PERMIT
 PP XI(E)(1) Additional Requirements PERMIT
Description: Failed to perform quarterly corrosion monitoring as required.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125
 30 TAC Chapter 331, SubChapter D 331.63(c)
 40 CFR Chapter 146, SubChapter D, PT 146, SubPT B 146.13(a)(1)
Rqmt Prov: PP VII(B) Operating Parameters PERMIT
 PP XI(A) Additional Requirements PERMIT
 PP XI(E)(1) Additional Requirements PERMIT
Description: Failed to maintain the injection pressure below the maximum permitted limit of 1,000 pounds per square inch gauge.
Classification: Moderate
Citation: 30 TAC Chapter 331, SubChapter D 331.63(h)
Rqmt Prov: PP V(C) Character of the Waste Stream PERMIT
 PP XI(A) Additional Requirements PERMIT
 PP XI(E)(1) Additional Requirements PERMIT
Description: Failed to maintain the pH of injection fluids below the maximum permitted limit of 8.0.
- 2 Effective Date: 10/25/2019 ADMINORDER 2018-0979-IWD-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 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.

See addendum for information regarding federal actions.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

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

Item 1	July 20, 2017	(1440867)
Item 2	August 14, 2017	(1421804)
Item 3	August 21, 2017	(1444555)
Item 4	August 22, 2017	(1430311)
Item 5	October 19, 2017	(1457015)
Item 6	November 16, 2017	(1462472)
Item 7	December 08, 2017	(1455786)
Item 8	December 12, 2017	(1462471)
Item 9	December 19, 2017	(1468864)
Item 10	January 18, 2018	(1465208)
Item 11	January 19, 2018	(1475569)
Item 12	March 01, 2018	(1472309)
Item 13	April 17, 2018	(1480875)
Item 14	June 22, 2018	(1498028)
Item 15	July 20, 2018	(1504490)
Item 16	September 07, 2018	(1513433)
Item 17	September 25, 2018	(1517972)
Item 18	September 26, 2018	(1517881)
Item 19	October 12, 2018	(1519941)

Item 20	October 18, 2018	(1534637)
Item 21	October 25, 2018	(1524452)
Item 22	November 15, 2018	(1542471)
Item 23	December 18, 2018	(1546235)
Item 24	January 18, 2019	(1562778)
Item 25	February 14, 2019	(1548290)
Item 26	February 19, 2019	(1562776)
Item 27	March 15, 2019	(1552316)
Item 28	March 18, 2019	(1562777)
Item 29	April 17, 2019	(1572849)
Item 30	May 07, 2019	(1557228)
Item 31	May 20, 2019	(1585307)
Item 32	May 23, 2019	(1569653)
Item 33	June 17, 2019	(1585308)
Item 34	June 21, 2019	(1575979)
Item 35	July 18, 2019	(1594216)
Item 36	August 19, 2019	(1589882)
Item 37	August 21, 2019	(1600508)
Item 38	October 02, 2019	(1607411)
Item 39	October 16, 2019	(1614290)
Item 40	November 18, 2019	(1620082)
Item 41	December 02, 2019	(1612002)
Item 42	December 19, 2019	(1627429)
Item 43	December 20, 2019	(1617766)
Item 44	January 14, 2020	(1635062)
Item 45	February 14, 2020	(1630330)
Item 46	February 20, 2020	(1641677)
Item 47	March 18, 2020	(1648190)
Item 48	April 20, 2020	(1654538)
Item 49	April 29, 2020	(1639828)
Item 50	May 20, 2020	(1661108)
Item 51	June 18, 2020	(1667638)
Item 52	July 15, 2020	(1674586)
Item 53	August 19, 2020	(1666113)
Item 54	August 20, 2020	(1681358)
Item 55	August 24, 2020	(1671003)
Item 56	September 18, 2020	(1687934)
Item 57	September 21, 2020	(1677309)
Item 58	September 22, 2020	(1677510)
Item 59	October 19, 2020	(1679497)
Item 60	October 24, 2020	(1694282)
Item 61	November 19, 2020	(1715477)
Item 62	December 16, 2020	(1677074)
Item 63	December 18, 2020	(1715478)
Item 64	February 10, 2021	(1702052)
Item 65	February 19, 2021	(1728549)
Item 66	March 19, 2021	(1728550)
Item 67	April 19, 2021	(1728551)
Item 68	April 23, 2021	(1709630)
Item 69	May 19, 2021	(1741567)
Item 70	May 20, 2021	(1722902)
Item 71	June 15, 2021	(1735706)
Item 72	June 18, 2021	(1748109)
Item 73	July 30, 2021	(1746923)
Item 74	August 03, 2021	(1747398)
Item 75	August 06, 2021	(1749439)
Item 76	August 10, 2021	(1749494)
Item 77	August 19, 2021	(1758121)
Item 78	October 19, 2021	(1777835)
Item 79	November 18, 2021	(1784630)

Item 80	November 29, 2021	(1770717)
Item 81	December 13, 2021	(1791664)
Item 82	December 22, 2021	(1755377)
Item 83	January 07, 2022	(1782255)
Item 84	January 18, 2022	(1799506)
Item 86	February 09, 2022	(1807338)
Item 87	February 25, 2022	(1795798)
Item 88	March 14, 2022	(1814390)
Item 89	March 22, 2022	(1802636)
Item 90	April 13, 2022	(1820960)
Item 91	May 16, 2022	(1812794)
Item 92	May 20, 2022	(1816887)
Item 93	May 27, 2022	(1817314)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 08/31/2021 (1767376)
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

- 2 Date: 11/30/2021 (1762953)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Conditions; No. 2g, Pg. 8 PERMIT
Description: Failed to prevent an unauthorized discharge of wastewater or any other waste.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.4
Eff. Limits & Monitoring RQMTs 1, Pg. 2 PERMIT
Description: Failed to properly analyze effluent samples.
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limits. and Mon. RQMTs, Pg. 2d PERMIT
Effluent Limits. and Mon. RQMTs, Pg. 2f PERMIT
Description: Failed to ensure the discharge of only authorized waste streams from Outfall 204 and Outfall 004.

- 3 Date: 01/13/2022 (1825352)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 4Q2021 – During the 4th quarter of 2021 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.120 mg/L at SMP STE 3-DOCK: 13050 SH 185, Port Lavaca (DBP2-01). ETT Point Value = 5

- 4 Date: 03/23/2022 (1825352)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 1Q2022 – During the 1st quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.105 mg/L at SMP STE 3-DOCK: 13050 SH 185, Port Lavaca (DBP2-01). ETT Point Value = 5

- 5 Date: 06/14/2022 (1825352)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 2Q2022 – During the 2nd quarter of 2022 the system violated the maximum contaminant level for trihalomethanes with a LRAA of 0.088 mg/L at SMP STE 3-DOCK: 13050 SH 185, Port Lavaca (DBP2-01). ETT Point Value = 5

F. Environmental audits:

Notice of Intent Date: 12/20/2021 (1787180)

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

Addendum to Compliance History Federal Enforcement Actions

Reg Entity Name: INEOS GREEN LAKE PLANT

Reg Entity Add: ST HWY 185 5 MI N ST

Reg Entity City: PORT LAVACA

Reg Entity No: RN100210038

EPA Case No: 06-2019-1736

Order Issue Date (yyyymmdd): 20181214

Case Result: Final Order No Penalty

Statute: CWA

Sect of Statute: 301/402

Classification: Minor

Program: NPDES - Base Program

Citation:

Violation Type:

Cite Sect:

Cite Part:

Enforcement Action: Administrative Compliance Orders

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
INEOS NITRILES USA LLC
RN100210038

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2022-0873-PWS-E

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding INEOS NITRILES USA LLC (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this Order to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 13050 State Highway 185 North near Port Lavaca, Calhoun County, Texas (the "Facility"). The Facility provides water for human consumption, has approximately 19 service connections, and serves at least 25 people per day for at least 60 days per year. As such, the Facility is a public water system as defined in 30 TEX. ADMIN. CODE § 290.38(71).
2. During a record review for the Facility conducted on June 20, 2022 through July 8, 2022, an investigator documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts at Site 1 were 0.120 milligrams per liter ("mg/L") for the fourth quarter of 2021, 0.105 mg/L for the first quarter of 2022, and 0.088 mg/L for the second quarter of 2022.

II. CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact No. 1, the Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the TCEQ.
2. As evidenced by Finding of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049(a), the TCEQ has the authority to assess an administrative penalty against the Respondent for violations of state statutes within the TCEQ's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of \$2,287 is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent paid the \$2,287 penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Conclusion of Law No. 4 for violations of state statutes and rules of the TCEQ. The payment of this penalty and the Respondent's compliance with all the requirements set forth in this Order resolve only the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for violations that are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: INEOS NITRILES USA LLC, Docket No. 2022-0873-PWS-E" to:

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

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Order, return to compliance with the MCL for TTHM, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115.
 - b. Within 380 days after the effective date of this Order, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Drinking Water Special Functions Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Enforcement Division at the address listed above.
6. 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 in this Order.
7. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
8. This 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 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.

9. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date

3/30/2023

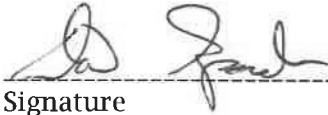
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG 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

3/6/23

Date

David Spoczek

Name (Printed or typed)

Authorized Representative of
INEOS NITRILES USA LLC

Site Director

Title

If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.