

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

INEOS AMERICAS LLC

AI # 89237

PROCEEDINGS UNDER THE LOUISIANA ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-AE-09-0049
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* Enforcement Tracking No.
* AE-CN-07-0194
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SETTLEMENT

The following Settlement is hereby agreed to between Ineos Americas LLC (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a limited liability company that owns and/or operates synthetic organic chemical manufacturing plants located at or near 21255A Louisiana Highway 1 near Plaquemine in Iberville Parish, Louisiana (collectively “the Facility”).

II

On February 29, 2008, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-07-0194, which was based upon the following findings of fact:

The Respondent owns and/or operates the Ethanolamines (EA) Plant, the Polyethylene Glycol (PEG) Plant, and the Glycol Ethers (GE) Plant, all of which are synthetic organic chemical production facilities. The facilities are located at or near 21255A Louisiana Highway 1

near Plaquemine in Iberville Parish, Louisiana. The facilities, in previously listed order, operate under Title V Permit Nos. 2599-V2 issued on July 17, 2007, 2503-V0 issued on October 25, 2005, and 1838-V0 issued on November 14, 2005.

On or about May 23 and August 17, 2007, an inspection of the Respondent's facilities was performed to determine the degree of compliance with the Act and Air Quality Regulations.

The following violations were noted during the course of the inspection:

- A. According to the 2nd 2006 Title V Semi-Annual Monitoring Report and 4th 2006 Quarterly Deviation Report dated March 27, 2007, for Permit No. 1838-V0, the Respondent failed to submit the 2005 annual glycol ethers loading throughput report to the Department by March 31, 2006. This is a violation of Specific Requirement No. 202 of Title V Permit No. 1838-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- B. According to the 2nd 2006 Title V Semi-Annual Monitoring Report and 4th 2006 Quarterly Deviation Report dated March 27, 2007, for Permit No. 2599-V0, annual throughput exceedances were reported for the emission points listed in the following table:

| Emission Point | Description | Permitted Throughput Limits (gallons per year) | Reported Throughput (gallons per year) |
|-----------------------|-----------------------------|---|---|
| EQT053 | AQ-Sulfuric Acid Tank D-502 | 5, 500 | 8, 962 |
| EQT061 | M5-EA Tank DV-273A | 647, 849 | 705, 465 |
| EQT062 | M6-EA Tank DV-273B | 647, 849 | 705, 465 |

Each throughput exceedance is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

- C. According to the 2nd 2006 Title V Semi-Annual Monitoring Report and 4th 2006 Quarterly Deviation Report dated March 27, 2007, for Permit No. 2503-V0, the Respondent failed to submit the out of range reports for ZN-T-434 EO Scrubber (Emission Point EQT005) for the 2nd half of 2005 and 1st half of 2006 by March 31, 2006, and September 30, 2006, respectively. This is a violation of Specific Requirement No. 11 of Title V Permit No. 2503-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

On or about December 18, 2007, a file review of the Respondent's facilities was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the file review:

- A. The Respondent submitted the facilities' 1st 2007 Title V Semi-Annual Monitoring Reports for the period encompassing January 1 through June 30, 2007, on December 28, 2007, for each of its Title V permits. The reports were due by September 30, 2007. Each late submittal is a violation of General Condition K of Title V Permit Nos. 1838-V0, 2503-V0, 2599-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- B. According to the 2nd 2005 Title V Semi-Annual Monitoring Report dated March 31, 2006, for Permit No. 1838-V0, the Respondent listed two deviations for cellosolve loading activities occurring on December 3, 2005, and January 26, 2006. The report states that cellosolve was loaded into railroad cars without prior approval from the Department. Each failure to submit a permit application and receive approval from the permitting authority prior to construction, modification, and/or operation of a facility, which ultimately may have resulted in an invitation or increase in emission of air contaminants, is a violation of LAC 33:III.501.C.2 and La. R.S. 30:2057(A)(2). In a letter dated February 16, 2006, the Respondent requested the "...authority to load out cellosolve to minimize product quality issues occurring when cellosolve is processed during E-series campaign startups." The Department issued a temporary variance for offloading and storage of cellosolve on February 16, 2006.

On or about October 15, 2009, a file review of the Respondent's facility was completed to determine the degree of compliance with the Act, Air Quality Regulations, Water Quality Regulations, Solid Waste Regulations, and Hazardous Waste Regulations. The file review noted violations, some of which were reported and/or self-disclosed by the Respondent in letters dated April 12, 2005, May 4, 2005, April 7, 2008, August 15, 2008, and August 20, 2008.

The following violations, although not cited in any enforcement action issued to the Respondent, are included herein and made a part of this settlement agreement:

- A. The Respondent failed to timely submit the 2007 2nd Semiannual out of range report for the T-434 EO Scrubber (Emission Point EQT005) by March 31, 2008. This is a violation of Specific Requirement No. 11 of Title V Permit No. 2503-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

- B. The Respondent failed to timely submit the 2007 annual glycol ethers loading throughput report to the Department by March 31, 2008. This is a violation of Specific Requirement No. 202 of Title V Permit No. 1838-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- C. The Respondent failed to timely submit the 2007 Out of Range Report for the 1M-EA Ammonia Scrubber T-211 (Emission Point EQT044) by March 31, 2008. This is a violation of Specific Requirement No. 13 of Title V Permit No. 2599-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- D. The Respondent failed to timely submit the 2007 ethanolamines loading throughput report to the Department by March 31, 2008. This is a violation of Specific Requirement No. 155 of Title V Permit No. 2599-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- E. The Respondent failed to timely submit the 2007 Title V 2nd Semi-Annual Monitoring Report for Title V Permit Nos. 1838-V0, 2599-V2, and 2503-V0. Each late submittal is a violation of General Condition K of Title V Permit Nos. 1838-V0, 2599-V2, 2503-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- F. The Respondent failed to timely submit the 2007 Title V Annual Compliance Certification for Title V Permit Nos. 1838-V0, 2599-V2, and 2503-V0. Each late submittal is a violation of General Condition M of Title V Permit Nos. 1838-V0, 2599-V2, 2503-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- G. The Respondent failed to submit its 2006 and 2007 Emissions Inventory by September 1, 2007, and May 15, 2008, respectively. The Respondent did submit facility-wide emissions totals on time for 2006, but did not timely submit the 2006 emissions by source. This is a violation of LAC 33:III.919.D, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- H. The Respondent failed to submit the annual industrial solid waste report in a timely manner, in violation of LAC 33:VII.501.A.4. Specifically, the Annual Industrial Solid Waste Reports for 2004, 2005, and 2006 were not timely submitted.
- I. The Respondent failed to notify the Department within seven (7) days of changes in the information submitted for the identification number, in violation of LAC 33:V.1105.B. Specifically, the HW-1 form was not updated timely.
- J. The Respondent failed to conduct a periodic review and/or update its SPC plan every three years as required by LAC 33:IX.905.F.
- K. The Respondent failed to prepare and/or implement a Storm Water Pollution Prevention Plan as required by LPDES permit LA0115100 and LAC 33:IX.2701.A.
- L. The Respondent stored hazardous waste for greater than ninety (90) days

without a permit in violation of LAC 33:V.303.B. Specifically, three 25-gallon containers of hazardous waste in the satellite accumulation area were dated 2/12/08 and should have been removed by 5/12/08.

- M. According to a letter from the Respondent dated August 20, 2008, Drum D-201 had emissions of approximately 0.009 tons of ethylene oxide per year associated with startups and shutdowns of the Ethanolamines Plant that were not included in its Title V Permit. This is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- N. According to a letter from the Respondent dated August 20, 2008, Drums D-101C and D-101D had emissions of approximately 0.009 tons of ethylene oxide and 0.001 tons of propylene oxide per year, respectively, associated with startups and shutdowns of the Glycol Ethers Plant that were not included in its Title V Permit. This is a violation of LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- O. In a letter dated April 7, 2008, the Respondent notified the Department of annual throughput exceedances during the year of 2007 for the following emission points: EQT053 Permitted Throughput 5,500 Reported Throughput 17,086 gallons per year, EQT061 Permitted Throughput 647,849 Reported Throughput 684,850, and EQT062 Permitted Throughput 647,849 Reported Throughput 684,850. Each throughput is a violation of LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2). Additionally, the Respondent reported that EQT054 and EQT045 exceeded their permitted annual throughput limits for 2007 in its settlement offer dated August 15, 2008.
- P. Tank DV-135 (EQT022) emitted 0.019 tons of VOC in 2007. This exceeded EQT022's permitted VOC emission limit of <0.01 tons per year as set forth in Title V Permit No. 1838-V0. This is a violation of Part 70 General Condition of Title V Permit No. 1838-V0, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057(A)(2).
- Q. The Respondent failed to keep records of the concentration of ammonia at its EA Ammonia Scrubber T-211 from February 27 through August 15, 2008. This is a violation of Specific Requirement 10 of Title V Permit No. 2599-V2, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- R. The Respondent failed to keep containers of hazardous waste closed during storage in accordance with LAC 33:V.2107.A, in violation of LAC 33:V.1109.E.4. Specifically, a bucket used to sample crude amines re-run material contained a small amount of residual liquid and was not capped.
- S. According to correspondence dated August 15, 2008, the Respondent discovered two open ended lines (OELs) in the Glycol Ethers Plant that were not capped during a third-party audit. This is a violation of 40 CFR 63.167, which language has been adopted as a Louisiana regulation in LAC 33:III.5122; Specific Requirement 68 of Title V Permit No. 1838-V0; LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2).

- T. The Respondent failed to label waste lamps with the words "Universal Waste-Lamp(s)," "Waste Lamp(s)," or "Used Lamps," in violation of LAC 33:V.3823A.6. Specifically, the fluorescent bulb container was labeled "Bad Bulbs," and did not have an accumulation start date.
- U. According to the 2007 Title V Annual Compliance Certification dated June 18, 2008, the Respondent failed to timely submit the 2007 Title V 4th Quarter Deviation Report for Title V Permit Nos. 1838-V0, 2599-V2, and 2503-V0. Each late submittal is a violation of Part 70 General Condition R of Title V Permit Nos. 1838-V0, 2599-V2, and 2503-V0, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- V. In a letter dated April 12, 2005, the Respondent notified the Department that the 1M-EA Ammonia Scrubber T-211 (Emission Point EQT044) operated below the minimum flow rate of 35,000 pounds per hour for 3136 hours. This is a violation of Specific Condition No. 8 of Air Permit No. 2599 (M-1), LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).
- W. In a letter dated May 4, 2005, the Respondent stated that the 1M-EA Ammonia Scrubber T-211 (Emission Point EQT044) emission rate was 0.20 pounds of ammonia per hour. The permitted emission limit for the 1M-EA Scrubber T-211 is 0.09 pounds per hour. This exceedance is a violation of Air Permit No. 2599 (M-1), LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).
- X. According to the 1st Title V Semiannual Monitoring Report dated September 30, 2004, the Zn/T-434 Scrubber process computer lost historical data on May 27, 2004. According to the aforementioned report, the Zn/T-434 EO Scrubber process computer historical data was archived for 24 hour periods on May 1 through May 10, 2004 and May 25 through May 26, 2004. The permit requires four hour averaging. This is a violation of Specific Condition No. 7 of Title V Permit No. 2503 (M-1), LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY THOUSAND AND 00/100 DOLLARS (\$20,000.00), of which Seven Hundred Seventy-nine and 39/100 Dollars (\$779.39) represents the Department's enforcement

costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Consolidated Compliance Order and Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Iberville Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

INEOS AMERICAS LLC

BY: [Signature]
(Signature)
LARRY LOCICERO
OPERATIONS Manager
(Print)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this 12 day of April, 20 10, at Blagovestine LA.

[Signature]
NOTARY PUBLIC (ID # 12149)

PATRICIA S RAMIREZ
(Print) PATRICIAS. RAMIREZ
NOTARY PUBLIC
ID# 12149

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

Peggy M. Hatch, Secretary

BY: [Signature]
Beau James Brock, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of September, 20 10, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 10149)

Christopher A. Rateliff
(Print)

Approved: [Signature]
Peggy M. Hatch, Assistant Secretary