

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

INEOS FLUOR AMERICAS, LLC.

AI # 14535

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

\* Settlement Tracking No.  
\* SA-AE-12-0015  
\*  
\* Enforcement Tracking No.  
\* AE-PP-09-0265  
\* AE-PP-09-0265A  
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SETTLEMENT

The following Settlement is hereby agreed to between Ineos Fluor 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. At all times pertinent hereto, Respondent owned and /or operated a refrigerant gas manufacturing facility located in St. Gabriel, Iberville Parish, Louisiana (“the Facility”).

II

On January 19, 2011, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. AE-PP-09-0265, which was based upon the following findings of fact:

On or about March 29, 2010, a file review of the KLEA-134a Plant, owned and/or operated by Ineos Fluor Americas, LLC (Respondent), was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Air Quality Regulations. The site is a minor source facility which manufactures refrigerant gases, located at 4990B ICI Road in St.

Gabriel, Iberville Parish, Louisiana. The facility operated under Air Permit No. 1280-00040-07 until September 6, 2007. Modified Air Permit No. 1280-00040-08 was issued on September 6, 2007.

The Respondent submitted notification to the Department on or about May 13, 2010, of a change of ownership of Ineos Fluor Americas, L.L.C. to Mexichem Fluor Incorporated effective April 1, 2010. According to the notification, Ineos Fluor Americas, LLC retains responsibility for any violations prior to the effective date of the ownership transfer.

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

- A. According to the 2006 Compliance Report dated March 8, 2007, the Respondent reported that the 14-90 Relief Vent Scrubber (EQT006) operated out of the range specified in the permit. The table contains the times the Relief Vent Scrubber operated out of range for the 2006 calendar year:

Source ID	Source Description	Requirement	Permitted Limit	Operated Out of range
EQT006	14-90 Relief Vent Scrubber	Scrubber sump level	Minimum of 85%	1.2 hours
		Recirculation water flow rate	3000 gpm minimum	0.5 hours
		Make-up water flow rate	5 gpm minimum	5.2 hours

Each failure to operate the Relief Vent Scrubber within the permitted range is a violation of Specific Requirement 13 of Air Permit No. 1280-00040-07, LAC 33:III.501.C.4, LAC 33:III.501.C.6, and La. R.S. 30:2057(A)(2).

- B. According to the 2007 Compliance Report dated March 18, 2008, the Respondent reported that the 14-90 Relief Vent Scrubber (EQT006) operated out of the range specified in the permit. The table contains the time for the 2007 calendar year when the scrubber was operated out of range:

Source ID	Source Description	Requirement	Permitted Limit	Operated Out of range
EQT0006	14-90 Relief Vent Scrubber	Recirculation water flow rate	3000 gpm minimum	1.7 hours

The failure to operate within permit limits is a violation of Specific Requirement 10 of Air Permit No. 1280-00040-08, LAC 33:III.501.C.4 LAC 33:III.501.C.6, and La. R.S. 30:2057(A)(2).

- C. According to the 2008 Compliance Report dated March 9, 2009, the Respondent reported that the 8-90 HFC-134a Thermal Oxidizer (EQT0002) operated out of the range specified in the permit. The table below contains the time for the 2008 calendar year when the oxidizer was operated out of range:

Source ID	Source Description	Requirement	Permitted Limit	Operated Out of range
EQT0002	8-90 HFC-134a Thermal Oxidizer	Scrubbing water recirculation flow rate	≥ 31,500 lb/hr	5.13 hours
		Caustic recirculation flow rate	≥ 31,500 lb/hr	0.03 hours

The failure to operate within permitted range is a violation of Specific Requirement 5 of Air Permit No. 1280-00040-08, LAC 33:III.501.C.4 LAC 33:III.501.C.6, and La. R.S. 30:2057(A)(2).

- D. According to the Criteria & Toxic Air Pollution Emissions Statement for 2008 dated June 12, 2009, for the period encompassing January 1 through December 31, 2008, the Respondent reportedly exceeded its annual emission limitations for the following: CO (1.8 tpy over), NO<sub>x</sub> (8.17 tpy over) and SO<sub>2</sub> (0.01 tpy over). Each exceedance of the permitted annual emission limitations for the aforementioned compounds is a violation of Air Permit No. 1280-00040-08, LAC 33:III.501.C.4, La. R.S. 30:2057(A)(1), and 30:2057 (A)(2).
- E. According to a letter dated October 23, 2008, concerning notification of non-compliance following a compliance test conducted on October 1, 2008, the Respondent notified the Department that the average emissions of carbon monoxide (CO) and nitrogen oxide (NO<sub>x</sub>) were above the permitted levels as follows:

Date of Test	Compliance Tested for	Permit limit	Results
10/01/08	Carbon Monoxide	8.28 lb/hr (average)	12.94 lb/hr
		10.35 lb/hr (maximum)	
10/01/08	Nitrogen Oxides	4.09 lb/hr (average)	8.03 lb/hr
		5.11 lb/hr (maximum)	

Each failure to meet the permitted emissions limitations for these criteria and toxic air pollutants is a violation of Air Permit No. 1280-00040-08,

LAC 33:III.501.C.4, LAC 33:III.905 and La. R.S. 30:2057(A)(1) and 30:2057(A)(2). The facility had requested and received an Exemption to Test from October 6, 2008 through October 17, 2008, and a second request for testing dates from November 6, 2008 through February 4, 2009. In the follow up test conducted on October 6, 2008, it was revealed that the carbon monoxide emissions were within the permitted limitations; however, the emissions for nitrogen oxide were still above the hourly average and maximum permitted limitations at 6.14 lb/hr. Upon investigation, the Respondent determined that the source of the emission exceedances was due to damage associated with the process heater/steam generator for this unit and scheduled repairs for affected parts.

- F. According to an unauthorized discharge notification report dated November 16, 2009, the Respondent experienced a chemical release from its off-spec product storage tank. The release occurred on November 10, 2009, and lasted approximately twenty (20) minutes. During the release, approximately 479 pounds (lbs) of 1,1,1,2-tetrafluoroethane, 4 lbs of 1-chloror-2,2,2 trifluoroethane, 3 lbs of 1,1,2,2- tetrafluoroethane, 3 lbs of hydrogen fluoride, 1 lb of 1-chloro-1,2,2,2-tetrafluoroethane, and 1 lb of 1,1,1-trifluoroethane was released to the air. According to the report, a “flanged pressure transmitter connection failed resulting in a chemical release from the off-spec product storage tank.” This is a violation of LAC 33:III.905 which states, “When facilities have been installed on a property, they shall be used and diligently maintained in proper working order whenever any emissions are being made which can be controlled by the facilities, even though the ambient air quality standards in affected areas are not exceeded.” This is also a violation of Air Permit No. 1280-00040-08, La. R.S. 30:2057(A)(1) and 30:2057(A)(2).
- G. According to the 2009 Annual Compliance Report for the period encompassing January 1 through December 31, 2009, dated March 15, 2010, the Respondent reported that the 8-90 HFC-134a Thermal Oxidizer (EQT0002) and 14-90 Vent Scrubber (EQT006) operated out of the ranges specified in the permit:

Source ID	Source Description	Requirement	Permitted Limit	Operated Out of range
EQT0002	8-90 HFC-134a Thermal Oxidizer	Scrubbing water section recirculation flow rate	≥ 31,500 lb/hr	0.08 hours
		Caustic section recirculation flow rate	≥ 31,500 lb/hr	0.1 hours
EQT0006	14-90 Relief Vent Scrubber	Recirculation water flow rate	3,000 gpm minimum	0.1 hours

Each failure to operate within permitted ranges is a violation of Specific Requirements 5 and 10 of Air Permit No. 1280-00040-08, LAC 33:III.501.C.4, LAC 33:III.501.C.6, and La. R.S. 30:2057(A)(2).

On December 8, 2011, the Department issued to the Respondent an Amended Notice of Potential Penalty, Enforcement No. AE-PP-09-0265A, which amended the original Notice of Potential Penalty, Enforcement No. AE-PP-09-0265, as follows:

The Department amended paragraph A to read as follows:

“A. According to the 2006 Compliance Report dated March 8, 2007, the Respondent reported that the 14-90 Relief Vent Scrubber (EQT006) operated out of the range specified in the permit. The table contains the times the Relief Vent Scrubber operated out of range for the 2006 calendar year:

Source ID	Source Description	Requirement	Permitted Limit	Operated Out of range
EQT006	14-90 Relief Vent Scrubber	Scrubber sump level	Minimum of 85%	1.2 hours
		Make-up water flow rate	5 gpm minimum	5.2 hours

Each failure to operate the Relief Vent Scrubber within the permitted range is a violation of Specific Requirement 13 of Air Permit No. 1280-00040-07, LAC 33:III.501.C.4, LAC 33:III.501.C.6, and La. R.S. 30:2057(A)(2).”

The Department amended AE-PP-09-0265 to remove paragraphs B, D, and F in their entirety.

The Department amended paragraph G to read as follows:

“G. According to the 2009 Annual Compliance Report for the period encompassing January 1 through December 31, 2009, dated March 15, 2010, and additional information submitted to the Department on May 27, 2011, the Respondent lost the electronic flow data for the scrubbing scrubber water recirculation flowrate in the following instance:

Source ID	Source Description	Requirement	Permitted Limit	Duration
EQT0002	8-90 HFC-134a Thermal Oxidizer	Scrubbing water section recirculation flow rate	≥ 31,500 lb/hr	0.08 hours

Each failure to record and maintain the monitoring data is a violation of Specific Requirements 5 and 10 of Air Permit No. 1280-00040-08, LAC 33:III.501.C.4, and La. R.S. 30:2057(A)(2).”

The Department incorporated all of the remainder of the original Notice of Potential Penalty, Enforcement Tracking No. AE-PP-09-0265 and Agency Interest No. 14535 as if reiterated therein.

The Amended Notice of Potential Penalty was effective upon receipt.

### 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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which Two Thousand Nine Hundred Twenty-Eight and 09/100 Dollars (\$2,928.09) 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 permit record(s), the Notice of Potential Penalty, Enforcement No. AE-PP-09-0265, the Amended Notice of Potential Penalty, Enforcement No. AE-PP-09-0265A 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 La. 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 from the newspaper 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 FLUOR AMERICAS, LLC.**

BY: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

TITLE: \_\_\_\_\_

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

**LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
Peggy M. Hatch Secretary

BY: \_\_\_\_\_  
Cheryl Sonnier Nolan, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at Baton Rouge, Louisiana.

\_\_\_\_\_  
NOTARY PUBLIC (ID # \_\_\_\_\_)

\_\_\_\_\_  
(stamped or printed)

Approved:   
Cheryl Sonnier Nolan, Assistant Secretary