

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-WE-15-0035
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* Enforcement Tracking No.
* WE-CN-14-00900
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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 a chemical manufacturing facility located in Iberville Parish, Louisiana (“the Facility”).

II

On January 6, 2015, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-14-00900, which was based upon the following findings of fact:

“The Respondent owns and/or operates a chemical manufacturing facility located at 21255A Highway 1 South, Plaquemine, Iberville Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0115100 on April 23, 2009, with an effective date of June 1, 2009. LPDES permit LA0115100 expired on May 31, 2014, but is

administratively continued. Under the terms and conditions of LPDES permit LA0115100, the Respondent is authorized to discharge various wastewater streams to the Dow Chemical Division Canal, via effluent pipes, thence to the Mississippi River, waters of the state.

In June 2014 the Respondent retained a third-party consultant to perform a voluntary self-audit of the environmental compliance at the facility. The preliminary findings of the audit were presented to the Respondent on July 17, 2014. On or about August 7, 2014, the Respondent self-disclosed to the Department various non-compliance issues discovered during the audit. The Respondent also requested a meeting with the Department to discuss these non-compliance issues. On August 15, 2014, the Respondent met with the Department. As a result, the following violations were revealed from the Respondent's self-disclosure report:

A. The Respondent has allowed four (4) wastewater streams to be discharged at the facility that are not permitted under LPDES permit LA0115100. Specifically, the Respondent did not specify in the LPDES permit application that the following wastewater streams were constituents of Outfalls 183, 184, and 185:

- Low contamination potential storm water from the laydown area (discharged via Outfall 183)
- EA and GE Ejector Vent System discharging to Area 1 and Area 2 sumps (discharged via Outfall 184)
- Facility car wash wastewater (discharged via Outfall 185)
- Air compressor condensate blowdown (discharged via Outfall 185)

According to the Department's Water Permits Division, the parameters monitored at each outfall designated above are sufficient for these additional wastewater streams, but a modification of LPDES Permit LA0115100 would be needed to update the outfall descriptions. Each unauthorized discharge of pollutants to waters of the state from the above-referenced sources not authorized by a permit is a violation of La. R.S.

30:2076(A)(1)(a) and LAC 33:IX.501.D.

- B. The Respondent failed to review and update the facility's Storm Water Pollution Prevention Plan (SWPPP). The failure to review and update the SWPPP is a violation of LPDES permit LA0115100 (Part II, Section J.3 and Part III, Section A.2), La. R.S. 30.2076(A)(3), and LAC 33:IX.2701.A.
- C. The Respondent failed to properly maintain the flow monitoring equipment at Outfall 185. The failure to properly maintain the flow monitoring equipment at Outfall 185 is a violation of LPDES permit LA0115100 (Part III, Sections A.2 and C.6), La. R.S. 30.2076(A)(3), and LAC 33:IX.501.A.
- D. The Respondent failed to follow proper sampling and analysis procedures at the facility. Specifically, the Respondent failed to use correct sample holding times and failed to maintain sample equipment in clean condition. The failure to maintain proper sampling and analysis procedures at the facility is a violation of LPDES permit LA0115100 (Part III, Sections A.2 and C.5.c), La. R.S. 30.2076(A)(3) and LAC 33:IX.2701.E.
- E. The Respondent failed to report annual organics sampling for Outfalls 184 and 185. Specifically, the Respondent failed to report the sampling of annual organics at Outfalls 184 and 185 for the annual monitoring periods of 2009 through 2013. Each failure to report is a violation of LPDES permit LA0115100 (Part III, Sections A.2 and D.4), La. R.S. 30.2076(A)(3) and LAC 33:IX.2701.L.4.a

The Respondent also disclosed a potential area of concern regarding the submittal of inaccurate Discharge Monitoring Reports (DMRs). However, during the meeting and subsequent follow-up written requests, the Respondent requested additional time to review DMRs in order to confirm or specify any inaccurate information submitted on facility DMRs. The Respondent

completed its review, and one hundred and fifty-six (156) DMRs were submitted to the Department on December 18, 2014. All were submitted electronically using NetDMR except for the 2009 DMRs, which were in hard copy.

According to the report dated August 7, 2014, and the information discussed during the meeting on August 15, 2014, the Respondent is currently correcting the above referenced violations, and is preparing a corrected and updated LPDES renewal application. The Respondent submitted written correspondence dated September 2, 2014, summarizing and confirming requests and commitments made during the above-referenced meeting. During the meeting and subsequent follow-up written requests, the Respondent requested additional time to prepare and submit the updated LPDES renewal application and SWPPP along with corresponding updates to the SPC Plan for the facility.”

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 THIRTEEN THOUSAND SIX HUNDRED FORTY-EIGHT AND 12/100 DOLLARS (\$13,648.12), of which Six Hundred Forty-Eight and 12/100 Dollars (\$648.12) 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)/permit record(s), the Consolidated Compliance Order & 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 La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

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 and wording 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.

X

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).

XI

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

XII

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: Kevin M^c Govern
(Signature)

Kevin M^c Govern
(Printed)

TITLE: Site Manager

THUS DONE AND SIGNED in duplicate original before me this 7th day of December, 20 15, at Plaquemine, LA.

Susan F. Ussey
NOTARY PUBLIC (ID # 005931)

Susan F. Ussey 005931
(stamped or printed) for life

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: CCB

THUS DONE AND SIGNED in duplicate original before me this 19th day of January, 20 16, at Baton Rouge, Louisiana.

Delora C. King
NOTARY PUBLIC (ID # 20590)

La. Bar Roll #
Life Commission

Delora C. King
(stamped or printed)

Approved: _____
D. Chance McNeely, Assistant Secretary