EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1506-MLM-E **TCEQ ID:** RN104392626 **CASE NO.:** 30632

RESPONDENT NAME: INVISTA S.a.r.l.

ORDER TYPE:

X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__AMENDED ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__SHUTDOWN ORDER	__FINDINGS DEFAULT ORDER	__EMERGENCY ORDER	

CASE TYPE:

__AGRICULTURE	X AIR	X INDUSTRIAL AND HAZARDOUS WASTE	__MUNICIPAL SOLID WASTE
__OCCUPATIONAL CERTIFICATION	__PETROLEUM STORAGE TANKS	__PUBLIC WATER SUPPLY	__RADIOACTIVE WASTE
X MULTI-MEDIA (check all that apply)	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL	__USED OIL
__USED OIL FILTER	__WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: INVISTA S.a.r.l., 3055 Farm Road 1006, Orange, Orange County

TYPE OF OPERATION: Petrochemical manufacturing plant

SMALL BUSINESS: ___ Yes __X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 29, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Colin Barth, Enforcement Division, Enforcement Section IV, MC 128, (512) 239-0086; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896

TCEQ Field Investigator: Mr. Floyd Riley, Beaumont Regional Office, MC R-10, (409) 898-3838

Respondent: Ms. Paula Larocca, Environmental Manager, INVISTA S.a.r.l., P.O. Box 1003, Orange, Texas 77631
Mr. Gregory L. Albert, Plant Manager, INVISTA S.a.r.l., P.O. Box 1003, Orange, Texas 77631

Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT'S NAME: INVISTA S.a.r.l.
DOCKET NO.: 2006-1506-MLM-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date of Complaint Relating to this Case:** None **Date of Investigation Relating to this Case:** May 11, 2006 **Date of NOE Relating to this Case:** July 24, 2006 (NOE) **Background Facts:** This was a routine investigation. One violation was documented. **AIR/WASTE** Failed to maintain a properly functioning automatic waste feed cutoff ("AWFCO") when the carbon monoxide ("CO") level exceeded 100 parts per million ("ppm"). Specifically, the AWFCO for boiler No. 5 failed to cutoff the hazardous waste feed when the CO level exceeded the 100 ppm rolling hourly average from approximately 12:15pm-12:20pm and 12:25pm-1:12pm on March 21, 2006 [30 TEX. ADMIN. CODE § 335.221(a)(13) and 40 CODE OF FEDERAL REGULATIONS §§ 226.103(g), 266.104(b)(1) and TEX. HEALTH AND SAFETY CODE § 382.085(b)].	**Total Assessed:** $2,400 **Total Deferred:** $480 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $0 **Total Paid to General Revenue:** $1,920 **Site Compliance History Classification:** _X_ High __ Avg. __ Poor **Person Compliance History Classification:** __ High _X_ Avg. __ Poor **Major Source:** _X_ Yes __ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that on March 22, 2006 INVISTA implemented corrective measures at the Plant to ensure the AWFCO is functioning properly, which includes weekly inspections of the AWFCO and its bypass feature as well as software modification.

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) *PCW Revision May 19, 2005*

DATES					
Assigned	31-Jul-2006				
PCW	07-Aug-2006	Screening	02-Aug-2006	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	INVISTA S.a r.l.		
Reg. Ent. Ref. No.	RN104392626		
Facility/Site Region	10-Beaumont	Major/Minor Source	Major Source

CASE INFORMATION

Enf./Case ID No.	30632	No. of Violations	1
Docket No.	2006-1506-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Colin Barth
Multi-Media	Air	EC's Team	Enforcement Team 8
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 21% Enhancement *Subtotals 2, 3, & 7* $525

Notes: The respondent received one NOV and one Order for dissimilar violations and submitted a Notice of Intent.

Culpability No 0% Enhancement *Subtotal 4* $0

Notes: The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction *Subtotal 5* -$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		*(mark with a small x)*

Notes: The respondent came into compliance on March 22, 2006.

Economic Benefit 0% Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$0
Approx. Cost of Compliance	$200

SUM OF SUBTOTALS 1-7 Final Subtotal $2,400

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment $0

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

Notes:

Final Penalty Amount $2,400

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty $2,400

DEFERRAL 20% Reduction Adjustment -$480

Reduces the Final Assessed Penalty by the indicted percentage. *(Enter number only; e.g. 20 for 20% reduction.)*

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $1,920

Screening Date	02-Aug-2006	**Docket No.** 2006-1506-MLM-E	**PCW**
Respondent	INVISTA S.a r.l.		*Policy Revision 2 (September 2002)*
Case ID No.	30632		*PCW Revision May 19, 2005*
Reg. Ent. Reference No.	RN104392626		
Media [Statute]	Industrial and Hazardous Waste		
Enf. Coordinator	Colin Barth		

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)*	0	0%
	Other written NOVs	1	2%
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*	1	-1%
	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%
		Please Enter Yes or No	
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) **21%**

>> 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 respondent received one NOV and one Order for dissimilar violations and submitted a Notice of Intent.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **21%**

PCW

Policy Revision 2 (September 2002)
PCW Revision May 19, 2005

Screening Date	02-Aug-2006
Docket No.	2006-1506-MLM-E
Respondent	INVISTA S.a r.l.
Case ID No.	30632
Reg. Ent. Reference No.	RN104392626
Media [Statute]	Industrial and Hazardous Waste
Enf. Coordinator	Colin Barth
Violation Number	1
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.221(a)(13)
Secondary Rule Cite(s)	40 Code of Federal Regulations §§ 226.103(g), 266.104(b)(1) and Tex. Health and Safety Code § 382.085(b)
Violation Description	Failed to maintain a properly functioning automatic waste feed cutoff (AWFCO) when the carbon monoxide (CO) level exceeded 100 ppm, as documented during an investigation conducted on May 11, 2006. Specifically, the AWFCO for boiler No. 5 failed to cutoff the hazardous waste feed when the CO level exceeded the 100 ppm rolling hourly average limit from approximately 12:15pm-12:20pm and 12:25pm-1:12pm on March 21, 2006.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment -$7,500

Base Penalty Subtotal $2,500

Violation Events

Number of Violation Events: 1

mark only one (use a small x)	
daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $2,400

This violation Final Assessed Penalty (adjusted for limits) $2,400

Economic Benefit Worksheet

Respondent INVISTA S.a r.l.
Case ID No. 30632
Reg. Ent. Reference No. RN104392626
Media [Statute] Industrial and Hazardous Waste
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
	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling	$200	21-Mar-2006	22-Mar-2006	0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0
Notes for DELAYED costs	Estimated cost to ensure the AWFCO is functioning properly from the date in which the violation event occurred to the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance $200

TOTAL $0

Compliance History

Customer/Respondent/Owner-Operator:	CN602582231	INVISTA S.a r.l.	Classification: AVERAGE	Rating: 1.40
Regulated Entity:	RN104392626	INVISTA S. a r.l.	Classification: HIGH	Site Rating: 0.08

ID Number(s):

AIR NEW SOURCE PERMITS	REGISTRATION	76134
AIR NEW SOURCE PERMITS	REGISTRATION	76385
AIR NEW SOURCE PERMITS	REGISTRATION	76023
AIR NEW SOURCE PERMITS	PERMIT	1387
AIR NEW SOURCE PERMITS	REGISTRATION	75994
AIR NEW SOURCE PERMITS	PERMIT	1468
AIR NEW SOURCE PERMITS	PERMIT	1302
AIR NEW SOURCE PERMITS	PERMIT	1302A
AIR NEW SOURCE PERMITS	PERMIT	1302B
AIR NEW SOURCE PERMITS	PERMIT	1302C
AIR NEW SOURCE PERMITS	PERMIT	33081
AIR NEW SOURCE PERMITS	PERMIT	43815
AIR NEW SOURCE PERMITS	PERMIT	40371
AIR NEW SOURCE PERMITS	PERMIT	38853
AIR NEW SOURCE PERMITS	PERMIT	38402
AIR NEW SOURCE PERMITS	PERMIT	37818
AIR NEW SOURCE PERMITS	PERMIT	52687
AIR NEW SOURCE PERMITS	PERMIT	43041
AIR NEW SOURCE PERMITS	PERMIT	47720
AIR NEW SOURCE PERMITS	PERMIT	45950
AIR NEW SOURCE PERMITS	PERMIT	45766
AIR NEW SOURCE PERMITS	PERMIT	44499
AIR NEW SOURCE PERMITS	PERMIT	44206
AIR NEW SOURCE PERMITS	PERMIT	42060
AIR NEW SOURCE PERMITS	PERMIT	43816
AIR NEW SOURCE PERMITS	PERMIT	53853
AIR NEW SOURCE PERMITS	PERMIT	56241
AIR NEW SOURCE PERMITS	PERMIT	50464
AIR NEW SOURCE PERMITS	PERMIT	36731
AIR NEW SOURCE PERMITS	PERMIT	36872
AIR NEW SOURCE PERMITS	PERMIT	35863
AIR NEW SOURCE PERMITS	PERMIT	51530
AIR NEW SOURCE PERMITS	PERMIT	51405
AIR NEW SOURCE PERMITS	PERMIT	51509
AIR NEW SOURCE PERMITS	PERMIT	71720
AIR NEW SOURCE PERMITS	PERMIT	55029
AIR NEW SOURCE PERMITS	PERMIT	54974
AIR NEW SOURCE PERMITS	PERMIT	1303
AIR NEW SOURCE PERMITS	PERMIT	9468
AIR NEW SOURCE PERMITS	PERMIT	1790
AIR NEW SOURCE PERMITS	REGISTRATION	76879
AIR NEW SOURCE PERMITS	REGISTRATION	78657
AIR NEW SOURCE PERMITS	REGISTRATION	78882
AIR NEW SOURCE PERMITS	AFS NUM	0244
AIR NEW SOURCE PERMITS	REGISTRATION	79303
AIR OPERATING PERMITS	PERMIT	1350
AIR OPERATING PERMITS	PERMIT	1868
AIR OPERATING PERMITS	PERMIT	1897
AIR OPERATING PERMITS	PERMIT	1996
AIR OPERATING PERMITS	PERMIT	1898
AIR OPERATING PERMITS	PERMIT	2075
AIR OPERATING PERMITS	PERMIT	1350
AIR OPERATING PERMITS	PERMIT	1996
AIR OPERATING PERMITS	PERMIT	1868
AIR OPERATING PERMITS	PERMIT	1898
AIR OPERATING PERMITS	PERMIT	2075
UNDERGROUND INJECTION CONTROL	PERMIT	WDW054
UNDERGROUND INJECTION CONTROL	PERMIT	WDW055
UNDERGROUND INJECTION CONTROL	PERMIT	WDW191
UNDERGROUND INJECTION CONTROL	PERMIT	WDW282
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER	87432
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000057752
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	87432

	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50395
Location:	3055 FARM ROAD 1006, ORANGE, TX	Rating Date: 9/1/2005 Repeat Violator: NO	
TCEQ Region:	REGION 10 - BEAUMONT		
Date Compliance History Prepared:	August 01, 2006		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	August 01, 2001 to August 01, 2006		

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

Name: Colin Barth Phone: 512 239 0086

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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

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 Effective Date: 04/29/2006 ADMINORDER 2005-1309-AIR-E

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to properly report a final report to the regional office for an emissions event which occurred on March 16, 2005, from 0855-1334 hours (Incident Number 55416).

Classification: Moderate

Citation: 30 TAC Chapter 106, SubChapter V 106.492[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Air Permit by Rule OP
Description: Failure to obtain an authorization for emissions released during an 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	04/04/2006	(457614)
2	06/02/2005	(380479)
3	06/23/2006	(481019)
4	02/24/2006	(455241)
5	06/02/2005	(380477)
6	06/16/2006	(463560)
7	04/01/2005	(350766)
8	08/23/2005	(403155)
9	05/24/2005	(379312)
10	01/09/2005	(342338)
11	04/21/2006	(454956)
12	03/31/2006	(455654)
13	07/15/2005	(396196)
14	04/21/2006	(454957)
15	04/12/2006	(457852)
16	04/21/2006	(454958)
17	04/21/2006	(454959)

18 12/20/2005 (435764)
19 04/17/2006 (460939)
20 02/04/2006 (452682)
21 07/13/2005 (371442)
22 03/29/2006 (455158)
23 08/29/2005 (401553)
24 08/10/2005 (404172)
25 05/24/2005 (379315)
26 06/16/2005 (375902)
27 07/20/2006 (485968)
28 04/17/2006 (460954)
29 06/23/2006 (481017)
30 03/31/2006 (455549)
31 04/17/2006 (460946)
32 04/28/2005 (373043)
33 02/24/2006 (455270)
34 05/24/2005 (379319)
35 06/14/2005 (380139)
36 06/16/2006 (463571)
37 07/20/2006 (485969)
38 06/21/2006 (464221)
39 07/19/2005 (399166)
40 02/28/2006 (456852)
41 07/24/2006 (461204)
42 07/20/2006 (485963)
43 07/20/2006 (485971)
44 08/10/2005 (400558)
45 02/04/2006 (452802)
46 02/04/2006 (452777)
47 06/02/2005 (380478)
48 07/20/2006 (484913)
49 05/25/2005 (375873)
50 02/28/2006 (454898)
51 07/26/2006 (481814)
52 08/01/2005 (400359)
53 03/29/2006 (454950)
54 05/24/2005 (379320)
55 06/23/2006 (480996)
56 08/10/2005 (398957)
57 01/09/2005 (342430)

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

Date: 06/14/2005 (380139)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(3)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(3)
Description: Failure to properly label hazardous waste tanks with the label of "Hazardous Waste."

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
Description: Failure to immediately remove from service the leaking 1000 gallon hazardous waste tank system located at the P110 Tank Farm.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 335, SubChapter A 335.10(b)[G]

40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20(a)
Description: Failure to properly complete hazardous waste manifests.

F. Environmental audits.

Notice of Intent Date: 06/24/2004 (334680)

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

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
INVISTA S.A.R.L.	§	
RN104392626	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2006-1506-MLM-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 INVISTA S.a r.l. ("INVISTA") under the authority of the TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and INVISTA appear before the Commission and together stipulate that:

1. INVISTA owns and operates a petrochemical manufacturing plant at 3055 Farm Road 1006 in Orange, Orange County, Texas (the "Plant").

2. The Plant involves the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE chs. 361 and 382 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).

3. The Commission and INVISTA agree that the Commission has jurisdiction to enter this Agreed Order, and that INVISTA is subject to the Commission's jurisdiction.

4. INVISTA received notice of the violations alleged in Section II ("Allegations") on or about July 29, 2006.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by INVISTA of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Two Thousand Four Hundred Dollars ($2,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). INVISTA has paid One Thousand Nine Hundred Twenty Dollars ($1,920) of the administrative penalty and Four Hundred Eighty Dollars ($480) is deferred contingent upon INVISTA'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 INVISTA fails to timely and

satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require INVISTA to pay all or part of the deferred penalty.

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 INVISTA 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 on March 22, 2006 INVISTA implemented corrective measures at the Plant to ensure the automatic waste feed cutoff ("AWFCO") is functioning properly, which includes weekly inspections of the AWFCO and its bypass feature as well as software modification.

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 INVISTA 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, INVISTA is alleged to have failed to maintain a properly functioning AWFCO when the carbon monoxide ("CO") level exceeded 100 parts per million ("ppm"), in violation of 30 TEX. ADMIN. CODE § 335.221(a)(13) and 40 CODE OF FEDERAL REGULATIONS §§ 226.103(g), 266.104(b)(1) and TEX. HEALTH AND SAFETY CODE § 382.085(b) , as documented during an investigation conducted on May 11, 2006. Specifically, the AWFCO for boiler No. 5 failed to cutoff the hazardous waste feed when the CO level exceeded the 100 ppm rolling hourly average from approximately 12:15pm-12:20pm and 12:25pm-1:12pm on March 21, 2006.

III. DENIALS

INVISTA generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that INVISTA pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and INVISTA'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: INVISTA S.a r.l., Docket No. 2006-1506-MLM-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 provisions of this Agreed Order shall apply to and be binding upon INVISTA. INVISTA 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.

3. This Agreed Order, issued by the Commission, shall not be admissible against INVISTA in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or 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.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to INVISTA, or three days after the date on which the Commission mails notice of the Order to INVISTA, 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

_____ 3/7/07
For the Executive Director Date

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, if any, 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 my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- 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 against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Gregory L Albert 10/24/2006
Signature Date

GREGORY L ALBERT Plant Manager
Name (Printed or typed) Title
Authorized Representative of
INVISTA S.a r.l.

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.