

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-0800-AIR-E **TCEQ ID:** RN104392626 **CASE NO.:** 33492
RESPONDENT NAME: Invista S.a.r.l.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Invista S.a.r.l. Sabine River Site, 3055A Farm-to-Market Road 1006, Orange, Orange County</p> <p>TYPE OF OPERATION: Chemical processing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement actions regarding this facility location, Docket No. 2007-1392-AIR-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 29, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra L. Ruble, Enforcement Division, Enforcement Team 4, MC R-14, (361) 825-3126; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Mark McPherson, 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</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 2, 2007</p> <p>Date of NOV/NOE Relating to this Case: April 27, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>AIR</p> <p>Failed to prevent an unauthorized emissions event which occurred on August 21, 2006. Specifically, approximately 22 pounds of benzene were released over a duration of four hours as a result of the overfilling of a railcar. These emissions were not authorized. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11) [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)].</p>	<p>Total Assessed: \$2,975</p> <p>Total Deferred: \$595 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,380</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, initiate employee training concerning the Plant standard operating procedures for filling railcars to minimize and/or avoid the reoccurrence of emission events similar to the August 21, 2006 incident; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): NSR Permit No. 1302



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 26, 2007

DATES	Assigned	30-Apr-2007	Screening	14-May-2007	EPA Due	7-Mar-2008
	PCW	25-May-2007				

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

CASE INFORMATION				
Enf./Case ID No.	33492	No. of Violations	1	
Docket No.	2007-0800-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Audra L. Ruble	
Multi-Media		EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1*

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History *Subtotals 2, 3, & 7*

Notes: 19% Enhancement

Culpability *Subtotal 4*

Notes: No 0% Enhancement

Good Faith Effort to Comply *Subtotal 5*

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes: 0% Reduction

Other Adjustments *Subtotal 6*

Notes: 0% Enhancement*
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal*

OTHER FACTORS AS JUSTICE MAY REQUIRE *Adjustment*

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

Notes:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty*

DEFERRAL *Adjustment*

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

Notes: 20% Reduction

PAYABLE PENALTY

Screening Date 14-May-2007
Respondent Invista S.a.r.l.
Case ID No. 33492
Reg. Ent. Reference No. RN104392626
Media [Statute] Air
Enf. Coordinator Audra L. Ruble

Docket No. 2007-0800-AIR-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision April 26, 2007

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 submitted)	3	-3%
	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%
<i>Please Enter Yes or No</i>			
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) 19%

>> **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 has received one NOV for non-similar violations, one 1660 Agreed Order, and has submitted three Notices of Intent within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

Screening Date 14-May-2007

Docket No. 2007-0800-AIR-E

PCW

Respondent Invista S.a.r.l.

Policy Revision 2 (September 2002)

Case ID No. 33492

PCW Revision April 26, 2007

Reg. Ent. Reference No. RN104392626

Media [Statute] Air

Enf. Coordinator Audra L. Ruble

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)

Violation Description Failed to prevent an unauthorized emissions event which occurred on August 21, 2006, as discovered during a record review conducted on March 2, 2007. Specifically, approximately 22 pounds of benzene were released over a duration of four hours as a result of the overfilling of a railcar. These emissions were not authorized. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222(b)(1-11).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes The emissions event resulted in the release of an insignificant amount of pollutants which do not exceed levels protective of human health and/or the environment.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 1

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$34

Violation Final Penalty Total \$2,975

This violation Final Assessed Penalty (adjusted for limits) \$2,975

Economic Benefit Worksheet

Respondent: Invista S.a.r.l.
Case ID No.: 33492
Reg. Ent. Reference No.: RN104392626
Media: Air
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
<small>No commas or \$</small>							

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				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)	\$500	21-Aug-2006	1-Jan-2008	1.4	\$34	n/a	\$34

Notes for DELAYED costs

Estimated cost to conduct additional operator training and to implement procedures to prevent reoccurrence.
 Date required is the date of the event and final date is when compliance is expected to be achieved.

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 \$500

TOTAL \$34

Compliance History

Customer/Respondent/Owner-Operator:	CN602582231	Invista S.a.r.l.	Classification: AVERAGE	Rating: 1.76
Regulated Entity:	RN104392626	INVISTA SARL SABINE RIVER SITE	Classification: AVERAGE	Site Rating: 1.00
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		4836100244
	AIR NEW SOURCE PERMITS	REGISTRATION		79303
	AIR NEW SOURCE PERMITS	REGISTRATION		79898
	AIR NEW SOURCE PERMITS	REGISTRATION		79923
	AIR NEW SOURCE PERMITS	REGISTRATION		80152
	AIR NEW SOURCE PERMITS	REGISTRATION		80152
	AIR NEW SOURCE PERMITS	REGISTRATION		80427
	AIR NEW SOURCE PERMITS	EPA ID		PSDTX1085
	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
STORMWATER	PERMIT	TXR05R439
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50395

Location: 3055A FM 1006, ORANGE, TX, 77631 Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: May 10, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: May 10, 2002 to May 10, 2007

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

Name: Audra Ruble Phone: 361-825-3126

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.

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.)

- 1 01/09/2005 (342338)
- 2 01/09/2005 (342430)
- 3 04/01/2005 (350766)
- 4 04/28/2005 (373043)
- 5 05/24/2005 (379312)
- 6 05/24/2005 (379315)
- 7 05/24/2005 (379319)
- 8 05/24/2005 (379320)
- 9 05/25/2005 (375873)
- 10 06/02/2005 (380479)
- 11 06/02/2005 (380477)
- 12 06/02/2005 (380478)
- 13 06/14/2005 (380139)

14 06/16/2005 (375902)
15 07/13/2005 (371442)
16 07/15/2005 (396196)
17 07/19/2005 (399166)
18 08/01/2005 (400359)
19 08/10/2005 (404172)
20 08/10/2005 (400558)
21 08/10/2005 (398957)
22 08/23/2005 (403155)
23 08/29/2005 (401553)
24 12/20/2005 (435764)
25 02/04/2006 (452682)
26 02/04/2006 (452802)
27 02/04/2006 (452777)
28 02/24/2006 (455241)
29 02/24/2006 (455270)
30 02/28/2006 (456852)
31 02/28/2006 (454898)
32 03/29/2006 (455158)
33 03/29/2006 (454950)
34 03/31/2006 (455654)
35 03/31/2006 (455549)
36 04/04/2006 (457614)
37 04/12/2006 (457852)
38 04/17/2006 (460939)
39 04/17/2006 (460954)
40 04/17/2006 (460946)
41 04/21/2006 (454956)
42 04/21/2006 (454957)
43 04/21/2006 (454958)
44 04/21/2006 (454959)
45 06/16/2006 (463560)
46 06/16/2006 (463571)
47 06/21/2006 (464221)
48 06/23/2006 (481019)
49 06/23/2006 (481017)
50 06/23/2006 (480996)
51 07/20/2006 (485968)
52 07/20/2006 (485969)
53 07/20/2006 (485963)
54 07/20/2006 (485971)
55 07/20/2006 (484913)
56 07/24/2006 (461204)
57 07/26/2006 (481814)
58 08/22/2006 (466183)
59 08/22/2006 (465303)
60 10/06/2006 (512239)
61 12/28/2006 (514339)
62 02/05/2007 (537778)
63 02/23/2007 (541266)
64 02/23/2007 (538459)
65 03/12/2007 (541590)
66 03/12/2007 (541557)
67 03/12/2007 (541574)
68 04/21/2007 (535339)
69 04/25/2007 (555441)
70 04/25/2007 (555450)
71 04/25/2007 (555458)
72 04/25/2007 (555461)
73 04/27/2007 (541223)

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

Notice of Intent Date: 05/25/2005 (398773)
No DOV Associated

Notice of Intent Date: 05/09/2006 (534755)
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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
INVISTA S.A.R.L.
RN104392626**

**§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0800-AIR-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 TEX. HEALTH & SAFETY CODE ch. 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 chemical processing facility located at 3055A Farm-to-Market Road 1006 in Orange, Orange County, Texas (the "Plant").
2. The Plant 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 May 2, 2007.
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 Nine Hundred Seventy-Five Dollars (\$2,975) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Invista has paid Two Thousand Three Hundred Eighty Dollars (\$2,380) of the administrative penalty and Five Hundred Ninety-Five Dollars (\$595) 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 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.
10. 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.
11. 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 prevent an unauthorized emissions event which occurred on August 21, 2006, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a), as discovered during a record review conducted on March 2, 2007. Specifically, approximately 22 pounds of benzene were released over a duration of four hours as a result of the overfilling of a railcar. These emissions were not authorized. Since the emissions event was avoidable, it does not meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222(b)(1-11).

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. 2007-0800-AIR-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. It is further ordered that Invista shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, initiate employee training concerning the Plant standard operating procedures for filling railcars to minimize and/or avoid the reoccurrence of emission events similar to the August 21, 2006 incident; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, 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 notarized by a State of Texas Notary Public and 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

3. 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.
4. If Invista fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Invista's failure to comply is not a violation of this Agreed Order. Invista shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred.

Invista shall notify the Executive Director within seven days after Invista becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Invista shall be made in writing to the Executive Director. Extensions are not effective until Invista receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. 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 (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.
7. 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.
8. 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

John S. Steffen
For the Executive Director

12/03/2007
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 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 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 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;
- Automatic referral to the Attorney General's Office 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.

Mark D. McPherson
Signature

November 9, 2007
Date

Mark D. McPherson
Name (Printed or typed)
Authorized Representative of
Invista S.a.r.l.

Plant Manager
Title

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

