

TCEQ AIR QUALITY RENEWAL PERMIT NO. 20011

2008 SEP -8 PM 2: 00

APPLICATION BY § BEFORE THE
 INVISTA S.A.R.L. § TEXAS COMMISSION ON
 VICTORIA, VICTORIA COUNTY, TEXAS § ENVIRONMENTAL QUALITY

CHIEF CLERKS OFFICE

EXECUTIVE DIRECTOR'S AMENDED RESPONSE TO PUBLIC COMMENT

The Executive Director (ED) of the Texas Commission on Environmental Quality (the Commission or TCEQ) files this Amended Response to Public Comment (RTC or Response) on the request to renew Air Quality Permit No. 20011 filed by Invista S.a.r.l. (Applicant), and the ED's preliminary decision. As required by 30 TEXAS ADMINISTRATIVE CODE (TAC) § 55.156, before an application is approved, the ED prepares a response to all timely, relevant and material, or significant comments. The Office of the Chief Clerk timely received comment letters from the following persons: Sharon Harper and Steve Stevenson. This Response addresses all timely public comments received, whether or not withdrawn.

BACKGROUND

Description of Facility

The Applicant has applied to the TCEQ for renewal of Air Quality Permit No. 20011, which would authorize continued operation of the C-12 Intermediates Unit located at 2695 Old Bloomington Road North, Victoria, Victoria County, Texas. The existing facility is authorized to emit the following air contaminants: carbon monoxide, nitrogen oxides, ammonia, sulfur dioxide, particulate matter, nitric acid, organic acids and volatile organic compounds including benzene, 1,3-butadiene, butane, cyclododecane, cyclododecanone, cyclooctadiene, cyclododecatriene, cyclododecanol, cyclohexane, cyclohexanol, cyclohexanone, urea and vinylcyclohexane.

Procedural Background

The application for a renewal permit was received on March 15, 2005. The application was declared administratively complete on April 15, 2005. Invista published Notice of Receipt of Application and Intent to Obtain an Air Quality Permit Renewal (NORI) on May 24, 2005 in the *Victoria Advocate*, and the Alternative Language Notice was published on June 2, 2005 in the *Revista de Victoria*. The TCEQ received timely hearing requests from Sharon Harper and Steve Stevenson following the publication of NORI. An amendment application was received May 1, 2006 and was determined administratively complete May 25, 2006. Invista published Notice of Receipt of Application and Intent to Obtain an Air Quality Permit Amendment on June 9, 2006 in the *Victoria Advocate*, and the Alternative Language Notice was published on June 8, 2006 in the *Revista de Victoria*. No hearing requests were received in response to the amendment application. Invista re-noticed the renewal application on July 22, 2008 in the *Victoria Advocate*. No hearing requests were received in response to the re-noticed renewal application. The ED

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files this Amended RTC for the sole purpose of updating the procedural background and signature block. No changes to the comments and responses from the original RTC, filed January 9, 2006, have been made. Since this application was administratively complete after September 1, 1999, this action is subject to the procedural requirements adopted pursuant to House Bill 801.

COMMENTS AND RESPONSES

COMMENT 1:

The Commenters express concern pollution from the facility will severely impact the health of everyone in the pollution impact area. (Harper and Stevenson)

RESPONSE 1:

The Texas Clean Air Act (TCAA) and the rules of the TCEQ require evaluation of applications for air quality permits to determine whether any adverse affects to human health and welfare are expected from the proposed emissions from the applicant's facilities. Applicant must operate within the allowable emissions specified in their permit. Screen modeling was completed for butadiene, cyclododecatriene, cyclododecane, cyclododecanol, cyclododecanone, ammonia, nitric acid, nitrogen oxides and carbon monoxide. The ground level concentrations of modeled pollutants are less than the National Ambient Air Quality Standard (NAAQS) limit and less than the Effects Screening Levels (ESLs) indicating there will not be any adverse effects to human health and welfare.

If citizens detect a problem with air quality, they may contact the TCEQ's environmental hot-line to report environmental violations. Calls to 1-888-777-3186 are automatically routed to the TCEQ office in the region from which the call originates. Citizens are encouraged to call this hot-line anytime nuisance odors or discharges are suspected. You may also contact the TCEQ Regional Office for your area, located in Corpus Christi, at (361) 825-3100. The TCEQ investigates all complaints received. Plants or facilities found to be out of compliance will be subject to the TCEQ's enforcement procedures.

COMMENT 2:

The Commenters express concern pollution from the facility will severely impact the health of everything in the pollution impact area. (Harper and Stevenson)

REPSONSE 2:

In addition to protecting health, the NAAQS are also set to address welfare effects such as visibility reduction, crop damage, and material damage. Section 302(h) of the Federal Clean Air Act defines effects on welfare to include effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of

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property, hazards to transportation, and impacts to personal comfort and well-being, whether caused by transformation, conversion, or combination with other air pollutants. Because the emissions from this facility should not cause an exceedance of the NAAQS, no impact to land, livestock, crops, or visibility is expected, nor should emissions interfere with the use and enjoyment of surrounding land. These standards are set below levels which would be expected to cause nuisance conditions (dust accumulation, decreased visibility) or eye and throat irritation, and, therefore, should not impact the quality of life of those living near the proposed facility.

TCEQ Rules concerning nuisances state "no person shall discharge from any source" air contaminants which are or may "tend to be injurious to or adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property." As long as the facility is operated in compliance with the terms of the air quality permit, nuisance conditions are not expected. Applicant must comply with this rule as a condition of receiving the draft permit.

COMMENT 3:

The Commenters express concern regarding heavy metal contamination. Specifically, the Commenters state environmental sampling confirms the presence of heavy metals on their property at a higher concentration than in surrounding areas. The Commenters also state the facility's previous operator, Du Pont, was found guilty of trespass on their property through heavy metal contamination. (Harper and Stevenson)

RESPONSE 3:

The C-12 Intermediates Unit authorized under Air Quality Permit 20011 utilizes materials in a reactor process which do not contain heavy metals. Emissions associated with this process include carbon monoxide, nitrogen oxides, ammonia, sulfur dioxide, particulate matter, nitric acid, and various volatile organic compounds. There are no heavy metals included in these emissions.

COMMENT 4:

The Commenters state Du Pont has burned approximately 300 million pounds of hazardous waste every year since 1973. The Commenters further state there are healthier and more environmentally friendly methods of disposing this waste, but Du Pont chose to burn the waste for financial reasons. The Commenters also assert Du Pont burned this waste without a valid permit and has been operating under a grandfather clause for almost 10 years. (Harper and Stevenson)

RESPONSE 4:

The C-12 Intermediates Unit authorized under Air Permit 20011 is not authorized to burn hazardous wastes, and the Applicant is not requesting to burn hazardous wastes under this

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permit.

Du Pont's financial motivations are not a consideration for this permit. However, past practices are taken into account pursuant to TCEQ rules regarding compliance history.

COMMENT 5:

The Commenters believe it would be a gross act of negligence to issue the Applicant an air permit without Applicant showing it has changed Du Pont's waste disposal practices and there is no further heavy metal contamination occurring on Commenters' property. The Commenters also state issuance of the permit would demonstrate interests of big business are more important to the State of Texas than the health of its residents and environment. The Commenters ask why they should trust Applicant to comply with any issued permit. (Harper and Stevenson)

RESPONSE 5:

Although the Executive Director recognizes the commenters opposition to the renewal of an air permit to the applicant, public opposition alone is not legally sufficient to justify denial of a permit renewal in which the applicant has satisfied all the requirements specified in 30 TAC §116; Subchapter D, and the TCAA.

The TCEQ is charged with implementing the environmental law of the State of Texas, which are designed and intended to protect human health and the environment. The ED takes that duty seriously, and makes every effort to investigate violations and follow-up on enforcement activity.

Again, any person suspecting noncompliance with terms of any permit condition or any other environmental regulation may file a complaint with the TCEQ's 24-hour toll-free Environmental Complaints Hotline at 1-888-777-3186 or the Corpus Christi Regional Office at (361) 825-3100. The TCEQ investigates all complaints received. Plants or facilities found to be out of compliance will be subject to the TCEQ's enforcement procedures.

Changes Made in Response to Public Comments

No changes to the draft permit have been made.

Respectfully submitted,

Texas Commission on Environmental Quality

Mark Vickery, P.G., Executive Director

Stephanie Bergeron Perdue, Deputy Director
Office of Legal Services

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REPRESENTING THE
EXECUTIVE DIRECTOR OF THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

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APPLICATION BY § **BEFORE THE**
INVISTA S.A.R.L. § **TEXAS COMMISSION ON**
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CHIEF CLERK'S OFFICE
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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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Changes Made in Response to Public Comments

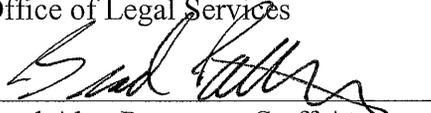
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Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

Glenn Shankle
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Stephanie Bergeron Perdue, Acting Deputy Director
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