

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1681-MLM-E **TCEQ ID:** RN100225689 **CASE NO.:** 31163

RESPONDENT NAME: BASF Corporation

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 checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" 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: BASF Pasadena, 4403 LaPorte Highway 225, Pasadena, Harris County</p> <p>TYPE OF OPERATION: Organic chemical manufacturing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</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 April 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 TCEQ Field Investigator: Ms. Rebecca Alvarado, Houston Regional Office, MC R-12, (713) 767-3500 Respondent: Mr. Vikram A. Bhandari, Site Manager, BASF Corporation, 4403 LaPorte Highway 225, Pasadena, Texas 77501 Mr. Rex Shuff, Environmental Specialist, BASF Corporation, 4403 LaPorte Highway 225, Pasadena, Texas 77501 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 14, 2006</p> <p>Date of NOE Relating to this Case: August 7, 2006 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>AIR/WASTE</p> <p>1) Failed to properly operate and maintain the automatic waste feed cutoff system to automatically cutoff the hazardous waste feed when operating conditions deviate from permitted limitations. Specifically, a review of the daily operational log for the F-8 Boiler Unit indicated that hazardous waste (2-ethyl hexanol) was fed into the boiler from 15:44 to 15:51 on April 15, 2006, during which time the boiler exceeded the maximum emission limitation of 100 parts per million by volume ("ppmv") on an hourly rolling average with a maximum value during this period of 195.29 ppmv recorded at 15:50 [30 TEX. ADMIN. CODE § 335.221(a)(6), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 266.102(e)(2)(ii) and 266.102(e)(7)(ii), and Industrial and Hazardous Waste Permit No. 50385, Provision Nos. V.I.3.b.1 and V.I.3.b.2].</p> <p>2) Failed to provide information regarding the date and nature of corrective action taken to rectify a malfunction. Specifically, a review of the hazardous waste boiler inspection records indicated the piping and flanges for the F-8 Boiler Unit were leaking from April 17 to 20, 2006, but the logs contained no information to indicate what corrective action had been implemented [30 TEX. ADMIN. CODE § 335.152(a)(1), 40 CODE OF FEDERAL REGULATIONS § 264.15(d), and Industrial and Hazardous Waste Permit No. 50385, Provision III.D.].</p>	<p>Total Assessed: \$4,396</p> <p>Total Deferred: \$879 <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: \$3,517</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>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that BASF has implemented the following corrective measures at the Plant:</p> <p>a. On June 21, 2006, BASF supplied documentation to the TCEQ updating the Plant's NOR to include: a waste stream for the combined waste streams found in tank D-746 (NOR 008); the boiler (NOR 010) as a waste management unit on waste stream 0122219H; and the regulatory status of waste management units NOR 006, 008, and 011; and</p> <p>b. On June 27, 2006, BASF provided documentation to the TCEQ detailing the corrective actions implemented to repair leaks on the piping and flanges at the F-8 Boiler Unit which occurred from April 17 through 20, 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, implement standard operational procedures to be employed by staff to ensure that the Automatic Waste Feed Cutoff System automatically cuts off feed of hazardous waste streams to the boiler unit when operating conditions deviate from permitted limitations; and</p> <p>b. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.</p>

<p>3) Failed to update the Notice of Registration ("NOR"). Specifically, the investigator noted that the following information needed to be added to the NOR: a waste stream for the combined waste streams found in tank D-746 (NOR 008); the boiler (NOR 010) as a waste management unit on waste stream 0122219H; and the regulatory status to waste management units NOR 006, 008, and 011 [30 TEX. ADMIN. CODE § 335.6(c) and Industrial and Hazardous Waste Permit No. 50385, Provision II.C.1.i.].</p>		
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Penalty Calculation Worksheet (PCW)

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

DATES	Assigned	14-Aug-2006	Screening	12-Sep-2006	EPA Due	09-Feb-2007
	PCW	03-Jan-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	BASF Corporation
Reg. Ent. Ref. No.	RN100225689
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31163	No. of Violations	3
Docket No.	2006-1681-MLM-E	Order Type	1660
Media Program(s)	Industrial and Hazardous Waste	Enf. Coordinator	Michael Meyer
Multi-Media	Air Quality and IHW	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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 57% Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability No **Subtotal 4**

Notes

Good Faith Effort to Comply 0% Reduction **Subtotal 5**

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

Notes

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

<small>Total EB Amounts</small>	<input type="text" value="\$35"/>
<small>Approx. Cost of Compliance</small>	<input type="text" value="\$700"/>

*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 20% Reduction **Adjustment**

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

Notes

PAYABLE PENALTY

Screening Date 12-Sep-2006 **Docket No.** 2006-1681-MLM-E **PCW**
Respondent BASF Corporation *Policy Revision 2 (September 2002)*
Case ID No. 31163 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100225689
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer

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 (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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 (<i>number of judgements or consent decrees meeting criteria</i>)	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 (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	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 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	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) 57%

>> **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 three NOVs for similar violations, one NOV for dissimilar violations, and two 1660 orders during the previous five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 57%

Screening Date 12-Sep-2006 **Docket No.** 2006-1681-MLM-E **PCW**
Respondent BASF Corporation *Policy Revision 2 (September 2002)*
Case ID No. 31163 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100225689
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer
Violation Number

Primary Rule Cite(s)
 30 Tex. Admin. Code § 335.221(a)(6), 40 Code of Federal Regulations ("CFR") § 266.102(e)(2)(ii) and 266.102(e)(7)(ii), Industrial and Hazardous Waste Permit No. 50385, Permit Provision Nos. V.I.3.b.1 and V.I.3.b.2

Secondary Rule Cite(s)

Violation Description
 Failed to properly operate and maintain the automatic waste feed cutoff system to automatically cutoff the hazardous waste feed when operating conditions deviate from permitted limitations, as documented during an investigation conducted on June 14, 2006. Specifically, a review of the daily operation log for the F-8 Boiler Unit indicated that hazardous waste (2-ethyl hexanol) was fed into the boiler from 15:44 to 15:51 on April 15, 2006, during which time the boiler exceeded the maximum emissions limitation of 100 parts per million by volume ("ppmv") on an hourly rolling average with a maximum value during this period of 195.29 ppmv recorded at 15:50.

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes
 Human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health and the environment.

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

A single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent BASF Corporation
 Case ID No. 31163
 Reg. Ent. Reference No. RN100225689
 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
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$500	15-Apr-2006	31-Mar-2007	1.0	\$2	\$32	\$34
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to correct the automatic waste feed cutoff system. The Date Required is the date of the violation and the final date is the estimated date of compliance.

Item	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)	Yrs	Interest Saved	Onetime Costs	EB Amount
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

TOTAL

Screening Date 12-Sep-2006 **Docket No.** 2006-1681-MLM-E **PCW**
Respondent BASF Corporation *Policy Revision 2 (September 2002)*
Case ID No. 31163 *PCW Revision May 19, 2005*
Reg. Ent. Reference No. RN100225689
Media [Statute] Industrial and Hazardous Waste
Enf. Coordinator Michael Meyer

Violation Number

Primary Rule Cite(s)
Secondary Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

Harm

Release	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes
Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

mark only one use a small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent BASF Corporation
 Case ID No. 31163
 Reg. Ent. Reference No. RN100225689
 Media [Statute] Industrial and Hazardous Waste
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$50	20-Apr-2006	27-Jun-2006	0.2	\$0	\$1	\$1
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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to provide information detailing what was leaking and what corrective actions were taken to fix the leak. Date Required is the last day on which the inspection records indicated the pipes and flanges were leaking and the Final Date is the date TCEQ was provided with documentation detailing corrective measures implemented.

Item	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

TOTAL

Screening Date 12-Sep-2006	Docket No. 2006-1681-MLM-E	PCW
Respondent BASF Corporation	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31163	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN100225689		
Media [Statute] Industrial and Hazardous Waste		
Enf. Coordinator Michael Meyer		
Violation Number	3	
Primary Rule Cite(s)	30 Tex. Admin. Code § 335.6(c) and Industrial and Hazardous Waste Permit No. 50385, Permit Provision No. II.C.1.i.	
Secondary Rule Cite(s)		
Violation Description	Failed to update the Notice of Registration ("NOR"), as documented during an investigation conducted on June 14, 2006. Specifically, the following information needed to be added to the NOR: a waste stream for the combined waste streams found in tank D-746 (NOR 008); the boiler (NOR010) as a waste management unit on waste stream 0122219H; and the regulatory status of waste management unit NOR 006, 008, and 011.	

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input style="width: 50px;" type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

		Major	Moderate	Minor	
>>	Falsification	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input style="width: 50px;" type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events

	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
<i>mark only one</i>	<i>quarterly</i>	<input type="text"/>
<i>use a small x</i>	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent BASF Corporation
 Case ID No. 31163
 Reg. Ent. Reference No. RN100225689
 Media [Statute] Industrial and Hazardous Waste
 Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$100	14-Jun-2006	21-Jun-2006	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)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to update the NOR. The date required is the date of the investigation and the final date is 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

TOTAL

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to keep records and dates on which a leaking component was repaired and the reason for delay of repair.

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to make the notations in the flare log regarding the flare observations.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.6(b)(5)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to identify all the air contaminants in the non-reportable upset record.

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter H 335.224(11)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.103(c)(7)(ii)

40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.103(d)

40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.103(e)

Description: Failure to submit recertification of compliance for BIF.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition No. 1 OP

Description: Failed to prevent an unauthorized release of ethylhexanol on October 19, 2001.

Effective Date: 07/21/2002

ADMINORDER 2001-0436-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC16 PERMIT

Description: Failure to meet 97.6% VOC removal efficiency for absorber (EPH58). This also constitutes a violation of 30 tac 116.115(c) which requires permit holder to comply w/ all special conditions contained in permit.

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	12/17/2004	(340005)
2	10/08/2004	(335638)
3	05/26/2006	(467437)
4	02/25/2006	(457007)
5	04/04/2003	(29684)
6	08/10/2005	(404088)
7	03/09/2006	(457664)
8	02/02/2004	(248735)
9	08/06/2003	(61747)
10	08/23/2005	(401711)
11	05/26/2006	(467498)
12	09/30/2004	(286946)
13	05/26/2005	(377479)
14	08/20/2003	(150842)
15	05/26/2005	(377481)
16	05/26/2005	(377482)
17	08/05/2005	(402692)
18	05/26/2005	(377483)
19	08/08/2002	(3431)
20	08/07/2006	(482237)
21	06/12/2006	(482145)
22	09/24/2002	(280766)
23	11/18/2002	(9676)
24	11/26/2001	(80559)
25	05/05/2006	(461812)

26	08/31/2004	(292289)
27	02/21/2003	(23498)
28	02/23/2006	(450166)
29	05/17/2006	(465062)
30	07/08/2002	(2357)
31	04/20/2004	(265881)
32	09/30/2004	(286896)
33	11/25/2002	(16238)
34	08/24/2004	(285394)
35	07/13/2003	(36620)
36	02/21/2006	(454606)
37	02/28/2006	(457029)
38	11/22/2002	(16264)
39	09/13/2004	(291896)
40	05/12/2004	(266852)

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

Date: 02/02/2004 (248735) Classification: Moderate
 Self Report? NO
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: PERMIT IA
 Description: Failure to properly maintain the process unit causing water from unknown source to flow to the chiller, where it froze and restricted the propylene flow resulting in the release of unauthorized emissions.

Date: 05/06/2006 (461812) Classification: Moderate
 Self Report? NO
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
 Rqmt Prov: OP IA
 PERMIT IA
 Description: Failure to maintain the emissions from marine loading (EPN: MVLOADING) within maximum allowable emission rates as permitted in the NSR permit 8199A.

Date: 05/26/2005 (377479) Classification: Moderate
 Self Report? NO
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)[G]
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)
 Description: Failure to mark the correct accumulation start date on a drum.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)

Rqmt Prov: PERMIT IA

Description: Failure to update the NOR.

Self Report? NO Classification: Moderate

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)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(c)
 Description: Failure to document daily tank inspections.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)

Rqmt Prov: PERMIT IA

Description: Failure to submit a correct Annual Waste Summary in 2002 and 2004.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
 40 CFR Chapter 266, SubChapter I, PT 266, SubPT.H 266.102(e)(8)(iv)
 Description: Failure to perform automatic waste feed cutoff test at least once every 7 days.

Rqmt Prov:

Self Report? NO

Classification: Moderate

Description: Failure to identify the boiler with the permit unit number.

Date: 02/21/2003

23498

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(9)

Description: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)
Failure to meet General Inspection Requirements.

Self Report? NO

Citation: 30 TAC Chapter 335, Subchapter H 335.221(a)(14)

Description: Failure to conduct required Monitoring and Inspections

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 335, Subchapter E 335.112(a)(3)
40 CFR Chapter 265, Subchapter I, PT 265, SubPT D 265.52(d)

Description: Failed to update the emergency coordinator information.

F. Environmental audits.

N/A

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
BASF CORPORATION
RN100225689

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-1681-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 BASF Corporation ("BASF") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and BASF appear before the Commission and together stipulate that:

1. BASF owns and operates an organic chemical manufacturing plant located at 4403 LaPorte Highway 225 in Pasadena, Harris County, Texas (the "Plant").
2. The Plant involves or involved the management of industrial hazardous waste as defined in TEX. HEALTH & SAFETY CODE ch. 361 and consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and BASF agree that the Commission has jurisdiction to enter this Agreed Order, and that BASF is subject to the Commission's jurisdiction.
4. BASF received notice of the violations alleged in Section II ("Allegations") on or about August 14, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by BASF of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Three Hundred Ninety-Six Dollars (\$4,396) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). BASF has paid Three Thousand Five Hundred Seventeen Dollars (\$3,517) of the administrative penalty and Eight Hundred Seventy-Nine Dollars (\$879) is deferred contingent upon BASF'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 BASF fails to

timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require BASF 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 BASF 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 BASF has implemented the following corrective measures at the Plant:
 - a. On June 21, 2006, BASF supplied documentation to the TCEQ updating the Plant's Notice of Registration to include: a waste stream for the combined waste streams found in tank D-746 (NOR 008); the boiler (NOR 010) as a waste management unit on waste stream 0122219H; and the regulatory status of waste management units NOR 006, 008, and 011; and
 - b. On June 27, 2006, BASF provided documentation to the TCEQ detailing the corrective actions implemented to repair leaks on the piping and flanges at the F-8 Boiler Unit which occurred from April 17 through 20, 2006.
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 BASF 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, BASF is alleged to have:

1. Failed to properly operate and maintain the automatic waste feed cutoff system to automatically cutoff the hazardous waste feed when operating conditions deviate from permitted limitations, in violation of 30 TEX. ADMIN. CODE § 335.221(a)(6), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 266.102(e)(2)(ii) and 266.102(e)(7)(ii), and Industrial and Hazardous Waste Permit No. 50385, Provision Nos. V.I.3.b.1 and V.I.3.b.2, as documented during an investigation conducted on June 14, 2006. Specifically, a review of the daily operational log for the F-8 Boiler Unit indicated that hazardous waste (2-ethyl hexanol) was fed into the boiler from 15:44 to 15:51 on April 15, 2006,

during which time the boiler exceeded the maximum emission limitation of 100 parts per million by volume ("ppmv") on an hourly rolling average with a maximum value during this period of 195.29 ppmv recorded at 15:50.

2. Failed to provide information regarding the date and nature of corrective action taken to rectify a malfunction, in violation of 30 TEX. ADMIN. CODE § 335.152(a)(1), 40 CODE OF FEDERAL REGULATIONS § 264.15(d), and Industrial and Hazardous Waste Permit No. 50385, Provision III.D, as documented during an investigation conducted on June 14, 2006. Specifically, a review of the hazardous waste boiler inspection records indicated the piping and flanges for the F-8 Boiler Unit were leaking from April 17 to 20, 2006, but the logs contained no information to indicate what corrective action had been implemented.
3. Failed to update the Notice of Registration, in violation of 30 TEX. ADMIN. CODE § 335.6(c) and Industrial and Hazardous Waste Permit No. 50385, Provision II.C.1.i., as documented during an investigation conducted on June 14, 2006. Specifically, the investigator noted that the following information needed to be added to the NOR: a waste stream for the combined waste streams found in tank D-746 (NOR 008); the boiler (NOR 010) as a waste management unit on waste stream 0122219H; and the regulatory status to waste management units NOR 006, 008, and 011.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that BASF pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and BASF'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: BASF Corporation, Docket No. 2006-1681-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. It is further ordered that BASF shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, implement standard operational procedures to be employed by staff to ensure that the Automatic Waste Feed Cutoff System automatically cuts off feed of hazardous waste streams to the boiler unit when operating

conditions deviate from permitted limitations, in accordance with 30 TEX. ADMIN. CODE § 335.221(a)(6) and 40 CODE OF FEDERAL REGULATIONS § 266.102(e)(7)(ii); and

- b. Within 30 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 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:

Manager, Waste Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Street, Suite H
Houston, Texas 77023-1452

3. The provisions of this Agreed Order shall apply to and be binding upon BASF. BASF 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 BASF 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, BASF's failure to comply is not a violation of this Agreed Order. BASF shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. BASF shall notify the Executive Director within seven days after BASF 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 BASF shall be made in writing to the

Executive Director. Extensions are not effective until BASF 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 BASF 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 BASF, or three days after the date on which the Commission mails notice of the Order to BASF, 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 Srdien

For the Executive Director

8/9/2007

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, 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.

V.A. Bhandari

Signature

2-6-07

Date

Vikram A. Bhandari

Name (Printed or typed)
Authorized Representative of
BASF Corporation

Site Manager

Title

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.

