

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-1508-AIR-E TCEQ ID: RN100218049 CASE NO.: 34611**  
**RESPONDENT NAME: BASF CORPORATION**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL 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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 602 Copper Road, Freeport, Brazoria County</p> <p><b>TYPE OF OPERATION:</b> Chemical manufacturing plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 26, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="padding-left: 20px;"><b>TCEQ Attorney:</b> Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="padding-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Ms. Miriam Hall, Air Enforcement Section, MC 128, (512) 239-1044</p> <p style="padding-left: 20px;"><b>TCEQ Regional Contact:</b> Ms. Linda Vasse, Houston Regional Office, MC R-12, (713) 767-3750</p> <p style="padding-left: 20px;"><b>Respondent:</b> Mr. Rod Kutz, Environmental Team Leader, BASF Corporation, 602 Copper Road, Freeport, TX 77541</p> <p style="padding-left: 20px;"><b>Respondent's Attorney:</b> Matthew Paulson, Baker Botts LLP, 98 San Jacinto Blvd., Suite 1500, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> N/A</p> <p><b>Date of Investigation Relating to this Case:</b> July 18, 2007</p> <p><b>Date of NOE Relating to this Case:</b> August 9, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed on March 12, 2008. The Respondent filed an answer on April 9, 2008. Settlement was reached on November 7, 2008.</p> <p><b>Current Compliance Status:</b> The Respondent has not completed any of the Ordering Provisions since the Agreed Order was signed on November 7, 2008.</p> <p><b>AIR:</b></p> <p>1. Failed to control unauthorized emissions from the OXO Flare, FL-200, on May 2, 2007. Specifically, 478.85 lbs. of VOCs, 2,289.61 lbs. of CO, and 71.39 lbs of NOx were released during an event that lasted 2 hours 59 minutes. Because the Respondent failed to provide timely notice of the emissions event, the demonstrations for an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 were not met [30 TEX. ADMIN. CODE § 116.115(c), Permit No. 8074A, Special Condition ("SC") No. 1, and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p> <p>2. Failed to submit timely final notification for the May 2, 2007 event [30 TEX. ADMIN. CODE § 101.201(b), and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</p>	<p><b>Total Assessed:</b> \$5,642</p> <p><b>Total Deferred:</b> \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$5,642</p> <p>The Respondent has paid the \$5,642 administrative penalty in full.</p> <p><b>Site Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification:</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September, 2002</p>	<p><b>Technical Requirements:</b> The Respondent shall:</p> <p>1. Within 30 days, or during the next scheduled shutdown, whichever is later, inspect the maintenance bypass switch (MBS) that was responsible for the May 2, 2007, emissions event to determine the root cause of the event.</p> <p>2. Within 30 days after completing the above referenced No. 1, implement improvements to designs, operations, and/or maintenance practices that address the cause leading to the failure of the MBS.</p> <p>3. Within 15 days after completing the above referenced No. 2, submit written certification, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the above.</p>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

<b>DATES</b>	Assigned	13-Aug-2007	Screening	12-Sep-2007	EPA Due	5-May-2008
	PCW	2-Sep-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	BASF Corporation		
Reg. Ent. Ref. No.	RN100218049		
Facility/Site Region	12-Houston	Major/Minor Source	Major

<b>CASE INFORMATION</b>				
Enf./Case ID No.	34611	No. of Violations	2	
Docket No.	2007-1508-AIR-E	Order Type	1660	
Media Program(s)	Air	Enf. Coordinator	Miriam Hall	
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* **\$2,600**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 117% Enhancement *Subtotals 2, 3, & 7* **\$3,042**

Notes: The penalty was enhanced for eight same or similar NOVs, six unrelated NOVs, two 1660 orders and one findings order.

**Culpability** No 0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

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

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts	\$29	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$550	

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$5,642**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$5,642**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$5,642**

**DEFERRAL** Reduction *Adjustment* **\$0**

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

Notes: Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$5,642**

Screening Date 12-Sep-2007

Docket No. 2007-1508-AIR-E

PCW

Respondent BASF Corporation

Policy Revision 2 (September 2002)

Case ID No. 34611

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN100218049

Media [Statute] Air

Enf. Coordinator Miriam Hall

### 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)	8	40%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	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	1	25%
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)	0	0%
	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) 117%

>> 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 penalty was enhanced for eight same or similar NOVs, six unrelated NOVs, two 1660 orders and one findings order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 117%

**Screening Date** 12-Sep-2007      **Docket No.** 2007-1508-AIR-E      **PCW**  
**Respondent** BASF Corporation      *Policy Revision 2 (September 2002)*  
**Case ID No.** 34611      *PCW Revision September 19, 2007*  
**Reg. Ent. Reference No.** RN100218049  
**Media [Statute]** Air  
**Enf. Coordinator** Miriam Hall  
**Violation Number**   
**Rule Cite(s)** 30 Tex. Admin. Code § 116.115(c), Permit No. 8074A, Special Condition ("SC") No. 1, and Tex. Health & Safety Code § 382.085(b)  
**Violation Description** Failed to control unauthorized emissions from the OXO Flare, FL-200, on May 2, 2007. Specifically, during an event which lasted two hours and 59 minutes, the following emissions were unauthorized: 478.85 pounds ("lbs") of volatile organic compounds ("VOC"), 2,289.61 lbs of carbon monoxide ("CO"), and 71.39 lbs of nitrogen oxides ("NOx"). Because the Respondent failed to provide timely notice of the emissions event, the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222 could not be met.  
**Base Penalty**

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

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

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**Matrix Notes** Human health or the environment has been exposed to insignificant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment**

**Violation Events**

Number of Violation Events        Number of violation days

*mark only one with an 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**

One quarterly event is recommended.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$29"/>	Violation Final Penalty Total <input type="text" value="\$5,425"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$5,425"/>	

## Economic Benefit Worksheet

**Respondent** BASF Corporation  
**Case ID No.** 34611  
**Reg. Ent. Reference No.** RN100218049  
**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
<b>Delayed Costs</b>							
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	2-May-2007	30-Jun-2008	1.2	\$29	n/a	\$29

**Notes for DELAYED costs**  
 The begin date is the date of the event, and the final date is the date corrective actions are expected to be completed. The event was caused by the malfunction of a maintenance bypass switch ("MBS") while the Respondent was installing a neutral-developing transformer, maintenance bypass power, in the uninterruptible power source. The MBS cannot be inspected and tested until the next scheduled shutdown (currently scheduled for April 2008).

<b>Avoided Costs</b>							
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 \$29

<b>Screening Date</b> 12-Sep-2007	<b>Docket No.</b> 2007-1508-AIR-E	<b>PCW</b>
<b>Respondent</b> BASF Corporation	<small>Policy Revision 2 (September 2002)</small>	
<b>Case ID No.</b> 34611	<small>PCW Revision September 19, 2007</small>	
<b>Reg. Ent. Reference No.</b> RN100218049		
<b>Media [Statute]</b> Air		
<b>Enf. Coordinator</b> Miriam Hall		
<b>Violation Number</b>	2	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 101.201(b), and Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to submit timely final notification for the May 2, 2007 event. Specifically, final notification was required to be submitted within 2 weeks after the end of the emission event. The Respondent did not submit the final report until May 17, 2007.	
<b>Base Penalty</b>		\$10,000

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				<b>Percent</b> <input type="text" value="0%"/>	

**>> Programmatic Matrix**

<b>Falsification</b>	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="x"/>	
				<b>Percent</b> <input type="text" value="1%"/>
<b>Matrix Notes</b>	The Respondent complied with at least 70% of the rule requirement.			

**Adjustment**

**Violation Events**

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days
<small>mark only one with an x</small> daily <input type="text"/> monthly <input type="text"/> quarterly <input type="text"/> semiannual <input type="text"/> annual <input type="text"/> single event <input type="text" value="x"/>	<b>Violation Base Penalty</b> <input type="text" value="\$100"/>	
One single event is recommended.		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b> <input type="text" value="\$217"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$217"/>	

## Economic Benefit Worksheet

Respondent BASF Corporation  
 Case ID No. 34611  
 Reg. Ent. Reference No. RN100218049  
 Media Air  
 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
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				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)	\$50	16-May-2007	17-May-2007	0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost of submitting the report from the date due to the date submitted.

**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

\$50

TOTAL

\$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN600124895 BASF Corporation	Classification: AVERAGE	Rating: 3.28
Regulated Entity:	RN100218049 BASF FREEPORT SITE	Classification: AVERAGE	Site Rating: 1.20

ID Number(s):

AIR OPERATING PERMITS	ACCOUNT NUMBER	BL00210
AIR OPERATING PERMITS	PERMIT	1536
AIR OPERATING PERMITS	PERMIT	1925
AIR OPERATING PERMITS	PERMIT	1926
AIR OPERATING PERMITS	PERMIT	1927
AIR OPERATING PERMITS	PERMIT	1928
AIR OPERATING PERMITS	PERMIT	2158
AIR OPERATING PERMITS	PERMIT	2159
AIR OPERATING PERMITS	PERMIT	2907
AIR OPERATING PERMITS	PERMIT	8074A
AIR OPERATING PERMITS	PERMIT	1733A
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD008081697
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30024
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50128
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50128
PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200501
WASTEWATER	PERMIT	WQ0003977000
WASTEWATER	PERMIT	TPDES0008788
WASTEWATER	PERMIT	TX0008788
AIR NEW SOURCE PERMITS	PERMIT	736
AIR NEW SOURCE PERMITS	PERMIT	10310
AIR NEW SOURCE PERMITS	PERMIT	10373
AIR NEW SOURCE PERMITS	PERMIT	10388
AIR NEW SOURCE PERMITS	PERMIT	10437
AIR NEW SOURCE PERMITS	PERMIT	10554
AIR NEW SOURCE PERMITS	PERMIT	10578
AIR NEW SOURCE PERMITS	PERMIT	10634
AIR NEW SOURCE PERMITS	PERMIT	10641
AIR NEW SOURCE PERMITS	PERMIT	11080
AIR NEW SOURCE PERMITS	PERMIT	11081
AIR NEW SOURCE PERMITS	PERMIT	11286
AIR NEW SOURCE PERMITS	PERMIT	7596A
AIR NEW SOURCE PERMITS	PERMIT	7595A
AIR NEW SOURCE PERMITS	PERMIT	7223A
AIR NEW SOURCE PERMITS	PERMIT	735B
AIR NEW SOURCE PERMITS	PERMIT	1396A
AIR NEW SOURCE PERMITS	PERMIT	1390A
AIR NEW SOURCE PERMITS	PERMIT	1395A
AIR NEW SOURCE PERMITS	PERMIT	1733A
AIR NEW SOURCE PERMITS	PERMIT	1391A
AIR NEW SOURCE PERMITS	PERMIT	1392A
AIR NEW SOURCE PERMITS	PERMIT	1445A
AIR NEW SOURCE PERMITS	PERMIT	6773A
AIR NEW SOURCE PERMITS	PERMIT	8074A
AIR NEW SOURCE PERMITS	PERMIT	9513A
AIR NEW SOURCE PERMITS	PERMIT	9494A
AIR NEW SOURCE PERMITS	PERMIT	9603A
AIR NEW SOURCE PERMITS	PERMIT	12952A
AIR NEW SOURCE PERMITS	PERMIT	12957A
AIR NEW SOURCE PERMITS	PERMIT	13481A
AIR NEW SOURCE PERMITS	PERMIT	12277A
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL00210
AIR NEW SOURCE PERMITS	PERMIT	735C
AIR NEW SOURCE PERMITS	PERMIT	19698
AIR NEW SOURCE PERMITS	PERMIT	19886
AIR NEW SOURCE PERMITS	PERMIT	31333
AIR NEW SOURCE PERMITS	PERMIT	34793
AIR NEW SOURCE PERMITS	PERMIT	35389
AIR NEW SOURCE PERMITS	PERMIT	40799

AIR NEW SOURCE PERMITS	PERMIT	42346
AIR NEW SOURCE PERMITS	PERMIT	42856
AIR NEW SOURCE PERMITS	PERMIT	46625
AIR NEW SOURCE PERMITS	PERMIT	55239
AIR NEW SOURCE PERMITS	EPA ID	PSDTX193M1
AIR NEW SOURCE PERMITS	PERMIT	47112
AIR NEW SOURCE PERMITS	AFS NUM	4803900017
AIR NEW SOURCE PERMITS	REGISTRATION	56742
AIR NEW SOURCE PERMITS	EPA ID	PSDTX651M1
AIR NEW SOURCE PERMITS	REGISTRATION	71405
AIR NEW SOURCE PERMITS	REGISTRATION	71817
AIR NEW SOURCE PERMITS	PERMIT	54458
AIR NEW SOURCE PERMITS	PERMIT	71145
AIR NEW SOURCE PERMITS	PERMIT	54190
AIR NEW SOURCE PERMITS	REGISTRATION	72728
AIR NEW SOURCE PERMITS	PERMIT	56520
AIR NEW SOURCE PERMITS	REGISTRATION	73597
AIR NEW SOURCE PERMITS	PERMIT	74453
AIR NEW SOURCE PERMITS	REGISTRATION	74947
AIR NEW SOURCE PERMITS	REGISTRATION	76613
AIR NEW SOURCE PERMITS	REGISTRATION	77412
AIR NEW SOURCE PERMITS	REGISTRATION	77324
AIR NEW SOURCE PERMITS	PERMIT	78452
AIR NEW SOURCE PERMITS	REGISTRATION	79305
AIR NEW SOURCE PERMITS	REGISTRATION	79691
AIR NEW SOURCE PERMITS	REGISTRATION	80499
AIR NEW SOURCE PERMITS	REGISTRATION	80222
AIR NEW SOURCE PERMITS	REGISTRATION	74240
AIR NEW SOURCE PERMITS	REGISTRATION	80438
AIR NEW SOURCE PERMITS	REGISTRATION	80352
AIR NEW SOURCE PERMITS	REGISTRATION	81340
AIR NEW SOURCE PERMITS	REGISTRATION	51026
AIR NEW SOURCE PERMITS	REGISTRATION	82339
AIR NEW SOURCE PERMITS	REGISTRATION	83062
AIR NEW SOURCE PERMITS	REGISTRATION	82606
UNDERGROUND INJECTION CONTROL	PERMIT	WDW051
UNDERGROUND INJECTION CONTROL	PERMIT	WDW099
UNDERGROUND INJECTION CONTROL	PERMIT	WDW408
UNDERGROUND INJECTION CONTROL	PERMIT	WDW409
WATER LICENSING	LICENSE	0200501
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30024
UNDERGROUND INJECTION CONTROL WATER	PERMIT	WDW409

Location: 602 COPPER RD, FREEPORT, TX, 77541 Rating Date: September 01 07 Repeat Violator: NO

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TCEQ Region: REGION 12 - HOUSTON

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Date Compliance History Prepared: October 31, 2007

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Agency Decision Requiring Compliance History: Enforcement

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Compliance Period: October 31, 2002 to October 31, 2007

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

Name: Miriam Hall Phone: (512) 239-1044

### 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)?  | <u>N/A</u> |
| 5. When did the change(s) in ownership occur?  | <u>N/A</u> |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

1. Effective Date: 08/07/2003  
Classification: Moderate

ADMINORDER 2001-0008-AIR-E (1660) |

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

Description: Failed to submit notifications of upsets that occurred on 5/1/00, 5/20/00 & 5/23/00 for Emergency Flares, Emission Point Numbers 12-1-2 and 12-1-48 located in the Hydroxylamine Unit.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Not specified PERMIT

Description: Failed to comply with the permitted NOx limits for EPNs 12-1-2 and 12-1-48 for the calendar year 1999.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(G)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Not specified PERMIT

Description: Exceeded the permitted hourly rates for NOx during upset events.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter J 335.323[G]

Description: Failed to pay outstanding Hazardous Waste Generation Fees and Non Hazardous Waste Generation fees for Fiscal Years 1998, 1999 and 2000.

2. Effective Date: 08/28/2004 ADMINORDER 2003-0222-AIR-E (FINDINGS) 2

Classification: Major

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

Description: Unauthorized and excessive emissions were released.

3. Effective Date: 10/25/2007 ADMINORDER 2007-0247-AIR-E (1660) 3

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)[G]  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: TCEQ Permit No. 1733A PERMIT

Description: Failed to prevent unauthorized emissions.

Classification: Moderate

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

Rqmt Prov: TCEQ Permit No. 9513A PERMIT

Description: Failed to prevent unauthorized emissions.

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	11/18/2002	(12311)
2	11/21/2002	(161416)
3	12/12/2002	(161420)
4	01/21/2003	(161424)
5	01/30/2003	(23083)
6	02/05/2003	(23551)
7	02/19/2003	(22915)
8	02/24/2003	(24796)
9	02/24/2003	(161383)
10	03/12/2003	(24596)
11	03/18/2003	(161386)
12	03/20/2003	(24039)
13	03/22/2003	(296675)
14	04/13/2003	(29647)
15	04/13/2003	(29644)
16	04/17/2003	(161391)
17	04/25/2003	(29326)
18	05/05/2003	(35365)
19	05/20/2003	(161395)
20	05/20/2003	(161403)
21	05/29/2003	(31351)
22	06/20/2003	(161399)

23	07/08/2003	(10794)
24	07/28/2003	(119109)
25	07/28/2003	(38139)
26	08/19/2003	(296685)
27	08/27/2003	(152689)
28	08/28/2003	(152903)
29	08/28/2003	(152792)
30	08/29/2003	(153030)
31	09/23/2003	(296687)
32	09/25/2003	(285489)
33	10/07/2003	(251052)
34	10/21/2003	(250208)
35	10/22/2003	(252701)
36	10/23/2003	(296689)
37	11/21/2003	(296690)
38	11/26/2003	(247665)
39	12/08/2003	(255468)
40	12/12/2003	(250207)
41	12/29/2003	(296692)
42	01/23/2004	(296693)
43	01/28/2004	(258683)
44	01/30/2004	(250213)
45	02/04/2004	(249697)
46	02/09/2004	(259451)
47	02/24/2004	(296673)
48	03/04/2004	(263240)
49	03/15/2004	(249699)
50	03/31/2004	(250406)
51	04/12/2004	(265264)
52	04/12/2004	(265591)
53	04/13/2004	(249696)
54	04/20/2004	(296676)
55	04/28/2004	(264648)
56	05/03/2004	(269890)
57	05/03/2004	(269887)
58	05/04/2004	(250402)
59	05/07/2004	(266213)
60	05/17/2004	(296679)
61	05/19/2004	(272261)
62	05/21/2004	(250203)
63	05/26/2004	(273606)
64	05/27/2004	(273826)
65	05/27/2004	(273809)
66	06/02/2004	(274107)
67	06/09/2004	(256599)
68	06/17/2004	(273337)
69	06/21/2004	(296681)
70	06/21/2004	(296683)
71	08/05/2004	(274585)
72	08/05/2004	(274590)
73	08/05/2004	(274595)
74	08/17/2004	(278836)
75	08/18/2004	(352725)
76	08/18/2004	(286229)
77	08/19/2004	(286312)
78	09/01/2004	(279375)
79	09/02/2004	(247960)
80	09/13/2004	(284657)
81	09/21/2004	(352726)
82	09/23/2004	(334721)
83	09/23/2004	(290934)
84	09/29/2004	(293381)
85	09/30/2004	(293375)
86	10/19/2004	(293378)
87	10/20/2004	(337752)
88	10/20/2004	(352727)
89	11/08/2004	(336518)
90	11/12/2004	(337392)

91	11/23/2004	(382107)
92	12/06/2004	(342105)
93	12/09/2004	(339233)
94	12/09/2004	(339374)
95	12/15/2004	(382108)
96	12/16/2004	(339143)
97	12/20/2004	(281723)
98	12/20/2004	(287154)
99	12/21/2004	(289777)
100	12/28/2004	(275252)
101	12/30/2004	(337803)
102	12/30/2004	(338117)
103	12/30/2004	(338316)
104	01/03/2005	(281278)
105	01/03/2005	(345085)
106	01/05/2005	(339041)
107	01/21/2005	(382109)
108	01/31/2005	(347355)
109	02/23/2005	(382105)
110	03/03/2005	(347495)
111	03/03/2005	(349394)
112	03/03/2005	(349369)
113	03/10/2005	(349400)
114	03/21/2005	(382106)
115	03/23/2005	(347356)
116	04/19/2005	(373770)
117	04/22/2005	(419961)
118	04/25/2005	(377465)
119	04/25/2005	(377466)
120	05/11/2005	(372974)
121	05/12/2005	(376490)
122	05/23/2005	(419962)
123	05/23/2005	(419964)
124	05/23/2005	(381384)
125	05/23/2005	(393169)
126	05/24/2005	(379291)
127	05/24/2005	(379611)
128	06/06/2005	(394016)
129	06/13/2005	(378146)
130	06/17/2005	(396245)
131	06/17/2005	(396050)
132	06/20/2005	(419963)
133	07/14/2005	(397522)
134	08/02/2005	(402694)
135	08/02/2005	(402492)
136	08/02/2005	(401794)
137	08/03/2005	(402980)
138	08/03/2005	(403000)
139	08/10/2005	(404111)
140	08/10/2005	(402755)
141	08/11/2005	(401786)
142	08/19/2005	(441078)
143	09/19/2005	(418588)
144	09/21/2005	(441079)
145	10/21/2005	(441080)
146	10/21/2005	(441081)
147	11/08/2005	(432025)
148	11/16/2005	(468857)
149	12/02/2005	(405555)
150	12/08/2005	(403855)
151	12/20/2005	(468858)
152	12/30/2005	(436666)
153	01/02/2006	(439777)
154	01/02/2006	(440234)
155	01/17/2006	(436507)
156	01/20/2006	(451686)
157	01/30/2006	(450778)
158	01/30/2006	(450256)

159	02/03/2006	(450363)
160	02/14/2006	(453833)
161	02/22/2006	(468854)
162	03/21/2006	(498483)
163	03/28/2006	(450863)
164	03/28/2006	(456877)
165	03/28/2006	(456881)
166	03/28/2006	(456834)
167	03/28/2006	(456991)
168	03/29/2006	(457262)
169	03/29/2006	(457427)
170	03/29/2006	(456450)
171	03/30/2006	(452957)
172	04/04/2006	(458505)
173	04/17/2006	(468855)
174	04/17/2006	(468856)
175	04/17/2006	(460116)
176	04/20/2006	(462472)
177	04/21/2006	(454595)
178	04/28/2006	(457444)
179	05/08/2006	(464770)
180	05/08/2006	(464623)
181	05/08/2006	(464383)
182	05/08/2006	(464642)
183	05/09/2006	(456731)
184	05/10/2006	(463574)
185	05/12/2006	(465545)
186	05/16/2006	(465894)
187	05/18/2006	(498484)
188	05/19/2006	(462792)
189	05/19/2006	(462793)
190	05/25/2006	(464223)
191	06/19/2006	(481723)
192	06/21/2006	(498485)
193	06/27/2006	(479895)
194	06/27/2006	(483624)
195	07/12/2006	(484356)
196	07/12/2006	(483737)
197	07/20/2006	(486350)
198	07/20/2006	(486367)
199	08/14/2006	(484324)
200	08/21/2006	(520485)
201	08/24/2006	(510032)
202	08/31/2006	(509144)
203	09/01/2006	(486347)
204	09/01/2006	(489607)
205	09/01/2006	(489452)
206	09/01/2006	(486203)
207	09/08/2006	(490204)
208	09/15/2006	(510723)
209	09/22/2006	(520486)
210	10/23/2006	(544844)
211	11/14/2006	(517775)
212	11/20/2006	(513396)
213	11/27/2006	(544845)
214	12/11/2006	(516628)
215	12/15/2006	(544846)
216	12/15/2006	(544847)
217	01/08/2007	(397670)
218	01/24/2007	(537748)
219	01/25/2007	(461764)
220	02/09/2007	(453599)
221	02/20/2007	(544843)
222	03/15/2007	(575896)
223	03/26/2007	(543487)
224	03/26/2007	(540143)
225	04/12/2007	(542797)
226	04/12/2007	(542794)

227 04/12/2007 (542356)  
 228 04/13/2007 (575897)  
 229 04/25/2007 (555277)  
 230 05/07/2007 (558822)  
 231 05/08/2007 (542324)  
 232 05/16/2007 (575898)  
 233 06/20/2007 (563156)  
 234 06/20/2007 (561427)  
 235 06/20/2007 (575899)  
 236 06/25/2007 (560674)  
 237 07/13/2007 (575900)  
 238 07/13/2007 (575901)  
 239 08/08/2007 (568683)  
 240 08/09/2007 (565176)  
 241 08/09/2007 (568719)  
 242 08/15/2007 (571713)  
 243 08/22/2007 (573257)  
 244 08/24/2007 (573035)  
 245 08/28/2007 (566913)  
 246 08/28/2007 (543648)  
 247 08/29/2007 (574047)  
 248 09/11/2007 (570687)  
 249 09/28/2007 (565185)  
 250 10/02/2007 (564246)  
 251 10/17/2007 (595549)  
 252 10/19/2007 (566894)  
 253 10/26/2007 (574216)

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

1. Date: 08/28/2003 (152792)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)[G]  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PERMIT 8074A, S.C. No. 1  
 Description: Unauthorized emissions resulting from failure to comply with the reporting requirements of 30 TAC 101.201(a)(1).
2. Date: 03/15/2004 (249699)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PA 8074A, Special Condition 1  
 Description: Failure to comply with the emission limits set forth in TCEQ Permit No. 8074A, SC No. 1.
3. Date: 03/31/2004 (250406)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
 Description: Failure to operate as represented in the NSR Permit No. 19886 Application dated August, 1995. (Material substitution without prior approval)
4. Date: 04/13/2004 (249696)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
 30 TAC Chapter 115, SubChapter D 115.352(2)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(d)(2)  
 Description: Failed to conduct first attempt at repair on leaking valves within 5 days – emissions.
5. Date: 05/26/2004 (250203)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Description: Failure to conduct the testing as required by the prescribed method.
6. Date: 09/28/2004 (293381)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)  
 Description: The RE failed to control VOC emissions during an unloading operation
7. Date: 10/19/2004 (293378)

- Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 Rqmt Prov: PA TCEQ Permit No. 735B amd PSD-TX-908 SC 7  
 Description: The RE failed to control the CO and NOx emissions associated with the boilers B-20-A and B-20-C
8. Date: 08/11/2005 (401786)  
 Self Report? NO Classification: Moderate  
 Rqmt Prov: PERMIT 735B SC12  
 Description: Failing to operate the CEMS of the Boilers, 20A and 20C in the time shared mode during the RATA testing.
9. Date: 02/15/2006 (453833)  
 Self Report? YES Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.356(2)(F)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 Rqmt Prov: OP O-01927, SC 1A  
 Description: Failure to record weekly walkthrough observations on 16 occasions.
- Self Report? YES Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEE 63.1206(c)(3)(vii)  
 Rqmt Prov: OP O-01927, SC1D  
 Description: Failure to conduct a weekly automatic waste feed cut off (AWFCO) test for the incinerator.
- Self Report? YES Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 82, SubChapter C, PT 82, SubPT F 82.156(a)(3)  
 Rqmt Prov: OP O-01927, SC 20A  
 Description: Failure to perform a follow up leak verification check within 30 days of bringing a unit back online.
- Self Report? YES Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.114(d)  
 Rqmt Prov: OP O-01927, SC 1A  
 Description: Failure to initially install bypass valves with car-seal valves.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 Rqmt Prov: OP O-01927, General Terms and Conditions  
 Description: Failure to report all deviations that occurred during the reporting period.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT EEE 63.1206(c)  
 Rqmt Prov: OP O-01927, SC 1D  
 Description: Failure to set automatic waste feed cut offs to the incinerator to rolling average
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter E 117.520(c)(2)(A)(i)(I)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 Rqmt Prov: OP O-01927, SC 16A(i)(2)  
 Description: Failure to conduct CEMS certification testing within 60 days after the installation of the system.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT F 63.104(b)(5)  
 Rqmt Prov: OP O-01927, SC 1F  
 Description: Failure to collect a minimum of three sets of samples during the quarterly cooling tower sampling.
10. Date: 03/28/2006 (456877)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.112b(a)(3)(I)  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.271(c)(1)  
 Rqmt Prov: OP O-01926, SC 1A  
 Description: Failure to conduct monthly monitoring of the closed vent systems for three units.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
 Rqmt Prov: PERMIT 1733, SC 6E  
 OP O-01926, SC 1A and 11  
 Description: Failure to plug open-ended lines or valves.
- Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)  
 Rqmt Prov: PERMIT 1733A, SC 21D  
 OP O-01926, SC 1A and 11  
 Description: Failure to submit a copy of the final sampling report within 45 days.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 117, SubChapter E 117.520(c)(2)(A)(i)(I)  
 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP O-01926, SC 1A  
 Description: Failure to conduct CEMS certification testing within 60 days after the installation.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Rqmt Prov: OP O-01926, General Terms and Conditions  
 Description: Failure to report all deviations in the semiannual deviation report.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT 1733A, SC 10D  
 OP O-01926, SC 1A and 11  
 Description: Failure to comply with the applicable requirements of 40 CFR 60, Subpart NNN  
 11. Date: 06/21/2006 (510032)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Rqmt Prov: PERMIT Self-reporting Requirements  
 Description: Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.

12. Date: 09/30/2006 (544844)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

13. Date: 12/11/2006 (516628)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.485(b)(1)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA 7223A and PSD-TX-193M3, SC 7F  
 OP OP - O-01259, SC 9A  
 Description: Failure to monitor leaking valve with an approved gas analyzer

14. Date: 08/28/2007 (543648)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-7(c)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP 0-1926, SC 1  
 Description: Failure to submit semiannual report.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: PA 1733A, SC 29D  
 OP OP O-01926, SC 11  
 Description: Failure to comply with permit condition, missing record of charcoal tower monitoring.  
 Self Report? NO Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11  
 PA P 1733A, SC 1  
 Description: Failure to comply with permit condition, maximum allowable emission rates for loading of caprolactam on both hourly, and annual basis.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.146(5)(C)(ii)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 1A.  
 Description: Failure to notify TCEQ about deviations in the annual compliance certification report.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 1A.  
 Description: Failure to notify TCEQ of exceeding loading limits in semiannual reports.  
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11.  
 PA Permit #1733A, SC 5  
 Description: Failure to comply with annual barge loading limit for caprolactam.  
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-1926, SC 11  
 PA Permit #1733A, SC 5  
 Description: The hourly barge loading limit, (Unit ID #11-1-52) of 18,000 gallons/hr of anone was exceeded.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11  
 PA P 1733A, SC 29C.  
 Description: The concentration of T-150 VOC exceeded 500 ppmv.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-1926, SC 11  
 PA P 1733A, SC 12  
 Description: Failure to record opacity.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143  
 40 CFR Chapter 61, SubChapter C, PT 61, SubPT W 61.272(c)(1)(ii)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 8  
 Description: Failure to restore calculation flow to PIMS, Unit ID 7-1-D45A1.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11.  
 PA P 1733A, 20C.  
 Description: Flare was operated at 89.4% destruction efficiency.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 117, SubChapter B 117.219(d)(3)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Description: Failure to submit reports required by changes associated with the NOx, CEMS.  
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 2F.  
 Description: Failure to generate emission events final records.  
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11.  
 PA P 1733A, SC1.  
 Description: Unit ID #7-2-3/7-2-4, exceeded the maximum allowable emission rates loading for cyclohexanone on an hourly basis.  
 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143  
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP OP O-01926, SC 11.  
 PA P 1733A, SC 15E.  
 Description: Failure to cap/plug open-ended line. This is Category C10.  
 Self Report? NO Classification: Major

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143  
5C THC Chapter 382, SubChapter D 382.085(b)  
Rqmt Prov: OP OP O-01926, SC 11.  
PA P 1733A, SC 5.  
Description: Failure to comply with the hourly railcars loading limit for caprolactam

- 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.
- 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;  
RN100218049**

§  
§  
§  
§  
§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2007-1508-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding BASF Corporation ("BASF") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and BASF represented by Matthew Paulson, of the law firm of Baker Botts LLP, appear before the Commission and together stipulate that:

1. BASF owns and/or operates a chemical manufacturing plant located on 602 Copper Road, Freeport, Brazoria County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
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, 2007.
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 five thousand six hundred forty-two dollars (\$5,642.00) is assessed by the Commission in settlement of the violations alleged in Section

- II ("Allegations"). BASF has paid five thousand six hundred forty-two dollars (\$5,642.00) of the administrative 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 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.
  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

BASF is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 116.115(c); Permit No. 8074A, Special Condition ("SC") No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to control unauthorized emissions from the OXO Flare, FL-200, on May 2, 2007, as documented during an investigation conducted on July 18, 2007. Specifically, during an event which lasted two hours and 59 minutes, the following emissions were unauthorized: 478.85 pounds ("lbs") of volatile organic compounds ("VOC"), 2,289.61 lbs of carbon monoxide ("CO"), and 71.39 lbs of nitrogen oxides ("NO<sub>x</sub>"). Because BASF failed to provide timely notice of the emissions event, the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 could not be met.
2. 30 TEX. ADMIN. CODE § 101.201(b) and TEX. HEALTH & SAFETY CODE § 382.085(b) by failing to submit timely final notification for the May 2, 2007 event, as documented during an investigation conducted on July 18, 2007. Specifically, final notification was required to be submitted within two weeks after the end of the emission event. BASF did not submit the final report until May 17, 2007.

### III. DENIALS

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

### IV. ORDER

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 considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "re: BASF Corporation, Docket No. 2007-1508-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. BASF shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of the Agreed Order or during the next scheduled shutdown, whichever is later, inspect the maintenance bypass switch ("MBS") that was responsible for the May 2, 2007 emissions event to determine the root cause of the event;
  - b. Within 30 days after completing Ordering Provision No. 2.a., implement any improvements to design and operation of the MBS necessary to ensure the equipment functions in good working order during plant operations;
  - c. Within 15 days after completing Ordering Provision 2.b., submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b. 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

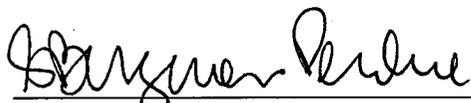
3. The provisions of this Agreed Order shall apply to and be binding upon BASF. BASF is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If BASF fails to comply with any of the Ordering Provisions in 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) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order 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



\_\_\_\_\_  
For the Executive Director

12/18/08

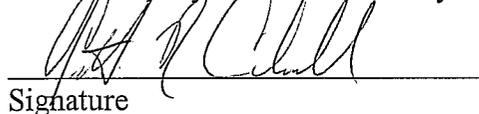
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that 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 BASF's failure to comply with the Ordering Provisions, if any, in this order and/or BASF's failure to timely pay the penalty amount, may result in:

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

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

  
\_\_\_\_\_  
Signature

11/07/08  
\_\_\_\_\_  
Date

ARTHUR R. COLWELL  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized representative of  
BASF Corporation

VP & GENERAL MGR  
\_\_\_\_\_  
Title