

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1546-AIR-E **TCEQ ID:** RN100209931 **CASE NO.:** 36585

RESPONDENT NAME: Bayer MaterialScience LLC

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Bayer MaterialScience Baytown Plant, 8500 West Bay Road, Baytown, Chambers County</p> <p>TYPE OF OPERATION: Chemical manufacturing plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is one additional pending enforcement action regarding this facility location, Docket No. 2008-0359-IHW-E.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on March 9, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Nadia Hameed, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3629; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Rainer Mellis, Vice President Manufacturing, Bayer MaterialScience LLC, 8500 West Bay Road, Baytown, Texas 77520 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: May 6 through 7, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 29, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to maintain incinerator (MP-073) exit temperature at or above 1,600 degrees Fahrenheit with a retention time of one second or greater [30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Air Permit No. O-02100, Special Terms and Conditions No. 7, Air Permit No. 2035A, Special Condition No. 7C, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$2,130</p> <p>Total Deferred: \$426 <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: \$1,704</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that the incinerator exit temperature is maintained at or above the current permit limit of 1,600 degrees Fahrenheit; and</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s):: Air CI0016S



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision June 12, 2008

TCEQ

DATES	Assigned	2-Sep-2008	PCW	25-Sep-2008	Screening	23-Sep-2008	EPA Due	26-May-2009
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RESPONDENT/FACILITY INFORMATION

Respondent	Bayer Material Science LLC		
Reg. Ent. Ref. No.	RN100209931		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	36585	No. of Violations	1
Docket No.	2008-1546-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 5
Maximum	\$10,000		

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	113.0% Enhancement	Subtotals 2, 3, & 7	\$1,130
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Notes
Penalty enhancement due to two 1660 agreed orders, three same or similar NOV's and 29 non-similar NOV's.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$11,585
Approx. Cost of Compliance \$70,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,130
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$2,130
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,130
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DEFERRAL	20.0% Reduction	Adjustment	-\$426
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes
Deferral offered for expedited settlement.

PAYABLE PENALTY	\$1,704
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Screening Date 23-Sep-2008

Docket No. 2008-1546-AIR-E

PCW

Respondent Bayer MaterialScience LLC

Policy Revision 2 (September 2002)

Case ID No. 36585

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN100209931

Media [Statute] Air

Enf. Coordinator Nadia Hameed

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	3	15%
	Other written NOV's	29	58%
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	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	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%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 113%

>> 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

Penalty enhancement due to two 1660 agreed orders, three same or similar NOV's and 29 non-similar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 113%

Economic Benefit Worksheet

Respondent Bayer MaterialScience LLC
Case ID No. 36585
Reg. Ent. Reference No. RN100209931
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
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$70,000	10-Nov-2006	22-Mar-2009	2.36	\$552	\$11,034	\$11,585
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for improving the reliability of the incinerator. Date Required based on when the deviation occurred within the reporting period and Final Date based on the date the corrective actions are expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$70,000

TOTAL

\$11,585

Compliance History

Customer/Respondent/Owner-Operator:	CN601544042 Bayer Materialscience LLC	Classification: AVERAGE	Rating: 2.42
Regulated Entity:	RN100209931 BAYER MATERIAL SCIENCE BAYTOWN PLANT	Classification: AVERAGE	Site Rating: 1.83

ID Number(s):			
	AIR OPERATING PERMITS	ACCOUNT NUMBER	CI0016S
	AIR OPERATING PERMITS	PERMIT	1390
	AIR OPERATING PERMITS	PERMIT	2100
	AIR OPERATING PERMITS	PERMIT	2101
	AIR OPERATING PERMITS	PERMIT	2102
	AIR OPERATING PERMITS	PERMIT	2103
	AIR OPERATING PERMITS	PERMIT	2104
	AIR OPERATING PERMITS	PERMIT	2529
	WASTEWATER	PERMIT	WQ0001499000
	WASTEWATER	PERMIT	WQ0001499000
	WASTEWATER	PERMIT	TX0002798
	AIR NEW SOURCE PERMITS	PERMIT	32678
	AIR NEW SOURCE PERMITS	PERMIT	32679
	AIR NEW SOURCE PERMITS	PERMIT	32835
	AIR NEW SOURCE PERMITS	PERMIT	32889
	AIR NEW SOURCE PERMITS	PERMIT	32017
	AIR NEW SOURCE PERMITS	PERMIT	33384
	AIR NEW SOURCE PERMITS	PERMIT	32469
	AIR NEW SOURCE PERMITS	PERMIT	33665
	AIR NEW SOURCE PERMITS	PERMIT	33446
	AIR NEW SOURCE PERMITS	PERMIT	34017
	AIR NEW SOURCE PERMITS	PERMIT	33931
	AIR NEW SOURCE PERMITS	PERMIT	34529
	AIR NEW SOURCE PERMITS	PERMIT	35148
	AIR NEW SOURCE PERMITS	PERMIT	35748
	AIR NEW SOURCE PERMITS	PERMIT	36361
	AIR NEW SOURCE PERMITS	PERMIT	36819
	AIR NEW SOURCE PERMITS	PERMIT	38737
	AIR NEW SOURCE PERMITS	PERMIT	39943
	AIR NEW SOURCE PERMITS	PERMIT	39205
	AIR NEW SOURCE PERMITS	PERMIT	39221
	AIR NEW SOURCE PERMITS	PERMIT	39305
	AIR NEW SOURCE PERMITS	PERMIT	38197
	AIR NEW SOURCE PERMITS	PERMIT	40214
	AIR NEW SOURCE PERMITS	PERMIT	41110
	AIR NEW SOURCE PERMITS	PERMIT	41954
	AIR NEW SOURCE PERMITS	PERMIT	42933
	AIR NEW SOURCE PERMITS	PERMIT	43879
	AIR NEW SOURCE PERMITS	PERMIT	44256
	AIR NEW SOURCE PERMITS	PERMIT	44965
	AIR NEW SOURCE PERMITS	PERMIT	46087
	AIR NEW SOURCE PERMITS	PERMIT	46547
	AIR NEW SOURCE PERMITS	PERMIT	47933
	AIR NEW SOURCE PERMITS	PERMIT	47877
	AIR NEW SOURCE PERMITS	PERMIT	48388
	AIR NEW SOURCE PERMITS	PERMIT	49695
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	CI0016S
	AIR NEW SOURCE PERMITS	PERMIT	15373
	AIR NEW SOURCE PERMITS	PERMIT	1933
	AIR NEW SOURCE PERMITS	PERMIT	1978A
	AIR NEW SOURCE PERMITS	PERMIT	2005
	AIR NEW SOURCE PERMITS	PERMIT	2006A
	AIR NEW SOURCE PERMITS	PERMIT	2006B
	AIR NEW SOURCE PERMITS	PERMIT	2033E
	AIR NEW SOURCE PERMITS	PERMIT	2035A
	AIR NEW SOURCE PERMITS	PERMIT	2141
	AIR NEW SOURCE PERMITS	PERMIT	6177
	AIR NEW SOURCE PERMITS	PERMIT	6391
	AIR NEW SOURCE PERMITS	PERMIT	6392
	AIR NEW SOURCE PERMITS	PERMIT	7503
	AIR NEW SOURCE PERMITS	PERMIT	7870

AIR NEW SOURCE PERMITS	PERMIT	7997
AIR NEW SOURCE PERMITS	PERMIT	10789
AIR NEW SOURCE PERMITS	PERMIT	10813
AIR NEW SOURCE PERMITS	PERMIT	11261
AIR NEW SOURCE PERMITS	PERMIT	11635
AIR NEW SOURCE PERMITS	PERMIT	13916
AIR NEW SOURCE PERMITS	PERMIT	13917
AIR NEW SOURCE PERMITS	PERMIT	14068
AIR NEW SOURCE PERMITS	PERMIT	14776
AIR NEW SOURCE PERMITS	PERMIT	15808
AIR NEW SOURCE PERMITS	PERMIT	17110
AIR NEW SOURCE PERMITS	PERMIT	18033
AIR NEW SOURCE PERMITS	PERMIT	7877A
AIR NEW SOURCE PERMITS	PERMIT	22197
AIR NEW SOURCE PERMITS	PERMIT	25130
AIR NEW SOURCE PERMITS	PERMIT	28737
AIR NEW SOURCE PERMITS	PERMIT	30638
AIR NEW SOURCE PERMITS	PERMIT	31256
AIR NEW SOURCE PERMITS	PERMIT	31683
AIR NEW SOURCE PERMITS	PERMIT	32646
AIR NEW SOURCE PERMITS	PERMIT	52342
AIR NEW SOURCE PERMITS	PERMIT	53004
AIR NEW SOURCE PERMITS	PERMIT	52109
AIR NEW SOURCE PERMITS	REGISTRATION	55162
AIR NEW SOURCE PERMITS	REGISTRATION	75401
AIR NEW SOURCE PERMITS	REGISTRATION	54702
AIR NEW SOURCE PERMITS	AFS NUM	4807100009
AIR NEW SOURCE PERMITS	REGISTRATION	70975
AIR NEW SOURCE PERMITS	REGISTRATION	70871
AIR NEW SOURCE PERMITS	REGISTRATION	85625
AIR NEW SOURCE PERMITS	PERMIT	54695
AIR NEW SOURCE PERMITS	PERMIT	54700
AIR NEW SOURCE PERMITS	PERMIT	52086
AIR NEW SOURCE PERMITS	REGISTRATION	76915
AIR NEW SOURCE PERMITS	REGISTRATION	79855
AIR NEW SOURCE PERMITS	REGISTRATION	84249
AIR NEW SOURCE PERMITS	REGISTRATION	85907
AIR NEW SOURCE PERMITS	REGISTRATION	85064
AIR NEW SOURCE PERMITS	REGISTRATION	85149
AIR NEW SOURCE PERMITS	REGISTRATION	84777
AIR NEW SOURCE PERMITS	REGISTRATION	85448
AIR NEW SOURCE PERMITS	REGISTRATION	85870
PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	75002
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30603
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD058260977
INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50173
IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30603
INDUSTRIAL AND HAZARDOUS WASTE POST CLOSURE	PERMIT	50173
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50173

Location: 8500 W BAY RD, BAYTOWN, TX, 77523 Rating Date: 9/1/2008 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: September 29, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 29, 2003 to September 29, 2008

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

Name: NHameed Phone: 713-767-3629

8	06/23/2004	(275422)
9	08/24/2004	(351678)
10	09/01/2004	(291513)
11	09/01/2004	(291516)
12	09/01/2004	(291513)
13	09/01/2004	(291516)
14	10/22/2004	(351682)
15	11/16/2004	(337556)
16	11/23/2004	(351681)
17	12/20/2004	(381660)
18	02/08/2005	(381658)
19	03/22/2005	(381659)
20	07/25/2005	(440601)
21	10/25/2005	(468059)
22	10/25/2005	(468060)
23	12/21/2005	(438746)
24	02/15/2006	(438764)
25	03/09/2006	(433319)
26	03/14/2006	(454965)
27	03/14/2006	(468057)
28	03/14/2006	(454965)
29	05/24/2006	(461566)
30	07/20/2006	(460769)
31	08/03/2006	(486550)
32	10/23/2006	(544213)
33	10/23/2006	(544216)
34	10/23/2006	(519974)
35	10/23/2006	(519973)
36	11/16/2006	(544214)
37	12/21/2006	(517975)
38	12/21/2006	(544215)
39	01/19/2007	(517978)
40	01/15/2008	(599760)
41	02/11/2008	(613410)

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

Date:	06/30/2004	(294401)	Classification:	Moderate
Self Report?	YES			
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/01/2004	(258331)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 115, SubChapter D 115.352(4) 30 TAC Chapter 116, SubChapter B 116.115(c)			
Rqmt Prov:	PA 2006 SC 10(E)			
Description:	Failure to plug open-ended valve or line.			
Date:	07/22/2004	(258310)	Classification:	Minor
Self Report?	NO			
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4)			
Rqmt Prov:	PERMIT 1978 OP O-02105			
Description:	Failure to seal open-ended lines.			
Date:	07/22/2004	(258315)	Classification:	Minor
Self Report?	NO			
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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)			
Rqmt Prov:	PERMIT 18033, Special Condition 2(E) PERMIT 22197, Special Condition 10(E)			

PERMIT 32679, Special Condition 7(E)
 OP O-02102
 Description: Failure to seal open-ended lines.
 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 32835
 OP O-02102

Description: Invalid monthly sample analysis.
 Date: 07/31/2004 (351678)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/18/2004 (258329)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 Rqmt Prov: OP O-02101
 PA Permit No. 1849A SC No.4E
 PA Permit No. 2033A SC No. 9E
 PA Permit No. 26246 SC No. 9E
 PA Permit No. 29481 SC No. 7E

Description: RE failed to plug the open-ended valves or lines.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.118(a)(3)
 Rqmt Prov: OP O-02101 Special Condition No. 1E
 Description: Regulated Entity failed to maintain hourly records of the flow meter on the bypass
 line.
 Date: 01/04/2005 (343305)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(g)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT TCEQ Air Permit No. T-18033
 Description: Bayer failed to comply with 30 TAC 101.222(b).
 Date: 02/28/2005 (381659)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/08/2005 (394069)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 Rqmt Prov: PERMIT 32835, SC 9
 OP O-02102, SC 7
 Description: Failure to conduct May 2004 ammonia slip test on CTO.
 Self Report? NO Classification: Moderate
 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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 Rqmt Prov: PERMIT 18033, SC 2E
 PERMIT 22197, SC 10E
 PERMIT 32678, SC 3E
 PERMIT 32679, SC 7E
 OP O-02102, SC 1A & SC 7
 Description: Failure to seal open-ended lines.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 Description: Incomplete deviation reports.
 Date: 07/08/2005 (394317)
 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)

Rqmt Prov: PERMIT 34017, SC 12E
 OP O-02103, SC 1A & SC 5

Description: Failure to seal open-ended lines

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT 34017, SC 17D
 OP O-02103, SC 5

Description: Failure to record liquid flowrate in the caustic fume scrubber

Date: 07/15/2005 (396158)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Incomplete deviation reports.

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)

Rqmt Prov: PERMIT 20153, SC 10E
 OP O-02106, SC 1A & SC 9

Description: Missing plugs on open-ended lines.

Date: 08/04/2005 (401277)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 35148 Special Condition 3 A

Description: Failure to keep CO emissions within the 100 ppm allowable limit on August 19, 2004 from 22:00 to 23:00.

Date: 08/05/2005 (400358)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT # 2006A Special Condition 10E

Description: Failure to ensure that all open ended lines are equipped with either a cap, blind flange or a second valve.

Date: 08/31/2005 (407287)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)

Description: Failure to ensure that there are no missing caps on valves that are in VOC service.

Date: 03/14/2006 (454965)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 22197, SC 10E
 PERMIT 32678, SC 3E
 PERMIT 32679, SC 7E
 OP O-02102, SC 7
 PERMIT T-18033, SC 2E

Description: Failure to seal open-ended lines.

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

Rqmt Prov: OP O-02102, SC 1E

Description: Failed to correctly analyze the cooling water taken at the entrance and exit of the heat exchanger.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: PERMIT 22197, SC 8A
 OP O-02102, SC 7A

Description: Failed to monitor, every twelve hours, the water flow rates through the scrubbers.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: OP O-02102, SC 7
PERMIT T-18033, SC 6

Description: Failed to include the time of the inspection of components that are in low volatility service.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)

Description: Failed to include on the semiannual deviation reports, the failure to monitor, every twelve hours, the water flow rates through the scrubbers and the failure to include the time of the inspection of components that are in low volatility service.

Date: 08/18/2006 (465994)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: Failed to meet the Emissions Event Reporting and Recordkeeping Requirements.

Date: 12/21/2006 (517975)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(1)(H)

Description: Failure to include the facility's permit number in the final report.

Date: 01/31/2007 (532639)

Self Report? NO Classification: Minor

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 FOP O-02529, SC 12
PA NSR Permit No. 39943, SC 7A

Description: Failure to conduct AVO walk through record keeping at the tank farm/barge dock area.

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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP FOP O-02529, SC 12
PA NSR Permit No. 39943, SC 8E

Description: Failure to plug 18 open-ended lines.

Date: 03/02/2007 (532758)

Self Report? NO Classification: Minor

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 FOP O-02104, Special Condition 8
PERMIT NSR #2006A, Special Condition 10E

Description: Failure to ensure that all open ended lines are equipped with either a cap, blind flange or a second valve.

Date: 04/05/2007 (532640)

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT NSR Permit No. 34017 SC 12E
OP O-02103 STC 5

Description: Failure to plug open-ended lines.

Self Report? NO Classification: Minor

Rqmt Prov: OP FOP O-02103 STC 5
PA NSR Permit No. 34017 SC 5

Description: failure to maintain minimum operating tempature for the HCl incinerator unit ID FV 11514600 during the compliance certification period.

Self Report? NO Classification: Minor

Rqmt Prov: OP FOP O-02103 STC 5
PERMIT NSR Permit No. 34017 SC 7

Description: failure to operate the caustic fume scrubber FV11514000 at a minimum liquid flow rate of 15 gallons per minutes (gpm) on May 18, 2006.

Date: 04/12/2007 (532641)

Self Report? NO Classification: Moderate

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 FOP O-02100, STC 7
PERMIT NSR Permit No. 2035A, SC 8C

Description: failure to maintain a minimum temperature for the thermal incinerator

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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP FOP O-02100, STC 7
PERMIT NSR Permit No. 2035A, SC 9E

Description: failure to seal open-ended lines.

Date: 04/30/2007 (574829)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/29/2007 (532637)

Self Report? NO Classification: Moderate

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 FOP O-02102 STC 7
PA NSR Permit No. 22197, SC 8A

Description: failure to monitor the absorber water flow rate every 12 hours during November 1, 2005 through December 21, 2005.

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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)

Rqmt Prov: OP FOP O-02102 STC 1
OP FOP O-02102 STC 7
PA NSR Permit No. 18033, SC 2E
PA NSR Permit No. 22197, SC 10E
PA NSR Permit No. 32678, SC 3E
PA NSR Permit No. 32679, SC 7E

Description: failure to plug open-ended lines in light liquid service in the Plastics unit during the compliance certification period.

Self Report? NO Classification: Minor

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 FOP O-02102, STC 7
PA NSR Permit No. 18033, SC 7A

Description: failure to conduct AVO checks for ammonia leaks due to incident in the unit during September 26, 2006.

Date: 10/31/2007 (619369)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 02/26/2008 (610437)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT NSR Permit 39943 SC#6A
OP O-02529 SC#12

Description: Failure to conduct Audio, visual and olfactory checks.

Date: 03/06/2008 (610507)
 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)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP O-1390, General Terms and Conditions
 Description: Failure to report the CO and NOx exceedances on the Title V deviation reports during the certification period.

Date: 03/28/2008 (610424)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: PERMIT NSR 26246 SC9E, 2005 SC8E, 1849A SC4E
 OP O-02101, SC1D
 Description: Failure to seal 27 open-ended valves or lines.

Date: 03/28/2008 (679794)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(17)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 04/01/2008 (610609)

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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP#O-02103, SC#5
 PERMIT NSR PERMIT# 34017, SC#12E
 Description: Failure to seal 6 open-ended lines

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT NNNNN 63.9035(b)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02103, SC#5
 PERMIT NSR PERMIT#34017, SC#7
 Description: Failed to monitor HCL fume scrubber EPN FV11012101 and Caustic fume scrubber EPN FV11514000.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT NNNNN 63.9035(b)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP O-02103, SC#5
 PERMIT NRS PERMIT #34017, SC 7
 Description: Flow transmitter failure of HCL fume scrubber.

Date: 04/09/2008 (610608)
 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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP# O-02102, STC 7
 OP FOP#O-02102, STC1D
 PERMIT NSR# 22197, SC10E
 PERMIT NSR#18033, SC 2E
 PERMIT NSR#32679, SC 7E
 Description: Failed to seal 11 open-ended valves. (Category C10)

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.152(f)(1)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP# O-02102, STC#7
 PERMIT NSR# 32835, SC11
 Description: Failed to monitor the thermal oxidizer EPN FV87820115.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 63, SubChapter C, PT 63, SubPT G 63.113(a)(2)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP FOP# O-02102, STC 1D
 OP FOP#O-02102, STC1A
 Description: Failure to reduce emission of total organic hazardous air pollutants by 98 percent
 for the incinerator EPN FV11514600 and the thermal oxidizer EPN FV87820115.
 Date: 04/18/2008 (610509)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 116, SubChapter B 116.116(a)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP O-2104, Special Condition 8
 Description: Failure to prevent the loading of IPDA, because the loading activity was not
 represented in the NSR Permit 7870 application.
 Date: 08/29/2008 (636739)
 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 63, SubChapter C, PT 63, SubPT H 63.167(a)(1)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP OP O-02100, Special Condition 7
 PA P 2035A, Special Condition 9E
 Description: Failure to cap open-ended lines, Unit ID# Fugitives. Category C 10
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THSC Chapter 382 382.085(b)
 Rqmt Prov: OP OP O-02100, Special Condition 7
 PA P 2035A, Special Condition 7D
 Description: Failure to maintain recycled scrubber liquor pH above 7.0, Unit ID#
 MP-073/F16452500
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(A)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to report deviations, Unit ID# MP-073/F16452500
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 122, SubChapter B 122.132(e)(2)
 5C THSC Chapter 382 382.085(b)
 Description: Failure to submit a complete permit application for general applicability
 determinations for cooling towers listed in FOP #O-2100, EPN# FC83006500,
 FC83006502, FC83013600, FC83015500, FC83015800.

F. Environmental audits.

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
BAYER MATERIALSCIENCE LLC
RN100209931

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§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1546-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bayer MaterialScience LLC ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a chemical manufacturing plant at 8500 West Bay Road in Baytown, Chambers County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 3, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand One Hundred Thirty Dollars (\$2,130) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Seven Hundred Four Dollars (\$1,704) of the administrative penalty and Four Hundred Twenty-Six Dollars (\$426) is deferred contingent

upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent 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 the Respondent 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to maintain incinerator (MP-073) exit temperature at or above 1,600 degrees Fahrenheit with a retention time of one second or greater, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 116.115(c), Air Permit No. O-02100, Special Terms and Conditions No. 7, Air Permit No. 2035A, Special Condition No. 7C and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on May 6 through 7, 2008.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Bayer MaterialScience LLC, Docket No. 2008-1546-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures designed to ensure that the incinerator exit temperature is maintained at or above the current permit limit of 1,600 degrees Fahrenheit; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air Section, Manager
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 the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Zedler
For the Executive Director

3/9/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

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

Rainer Mellis
Signature

12-18-08
Date

Rainer Mellis
Name (Printed or typed)
Authorized Representative of
Bayer MaterialScience LLC

VP Manufacturing
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.

