

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-0525-AIR-E **TCEQ ID:** RN100225689 **CASE NO.:** 37446
RESPONDENT NAME: BASF Corporation

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input 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: BASF Pasadena, 4403 LaPorte Highway 225, Pasadena, Harris 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 no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 24, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Miriam Hall, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-1044; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Klaus Diehl, Site Manager, BASF Corporation, P.O. Box 600, Pasadena, Texas 77501-0600 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: February 12, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 5, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>Failure to comply with the permitted emissions rates at Scrubber Outlet Stack No. 2 (Emission Point No. 112) for nitrogen oxides ("NO_x"), carbon monoxide ("CO"), and volatile organic compounds ("VOC"). Specifically, during a stack test conducted on December 13, 2007, NO_x emissions were 0.09 pounds per hour ("lb/hr"), whereas the permitted limit was 0.01 lb/hr. CO emissions were 79.93 lb/hr and 700.19 parts per million ("ppm") at 3% oxygen, whereas the permitted limits are 22.8 lb/hr and 400 ppm, respectively. VOC emissions were 31.61 lb/hr and 174.7 ppm, whereas the permitted limits were 9.04 lb/hr and 20 ppm, respectively [30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 117.310(c)(1), 40 CODE OF FEDERAL REGULATIONS § 60.612(a), Permit No. 8084A, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$13,300</p> <p>Total Deferred: \$2,660 <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: \$10,640</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On February 14, 2008, completed repairs to the catalytic oxidizer/incinerator to fix manufacturer defects;</p> <p>b. On February 15, 2008, conducted a stack test on Scrubber Outlet Stack No. 2 (Emission Point No. 112) which demonstrated compliance with all emission limits except for NO_x; and</p> <p>c. On April 16, 2008, received a permit alteration to increase the hourly NO_x emission rate at Scrubber Outlet Stack No. 2.</p>

Additional ID No(s): HG1249P



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision October 30, 2008

DATES	Assigned	9-Mar-2009	Screening	13-Apr-2009	EPA Due	30-Nov-2009
	PCW	15-Apr-2009				

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

CASE INFORMATION			
Enf./Case ID No.	37446	No. of Violations	1
Docket No.	2009-0525-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Miriam Hall
		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	\$10,000
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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	58.0% Enhancement	Subtotals 2, 3, & 7	\$5,800
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Notes The penalty was enhanced for two similar NOVs, four other NOVs, and two 1660 orders.

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	\$2,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1,804
 Approx. Cost of Compliance \$208,500
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,300
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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 \$13,300

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$13,300
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DEFERRAL	20.0% Reduction	Adjustment	-\$2,660
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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	\$10,640
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Screening Date 13-Apr-2009	Docket No. 2009-0525-AIR-E	PCW
Respondent BASF Corporation		<i>Policy Revision 2 (September 2002)</i>
Case ID No. 37446		<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No. RN100225689		
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 <i>(number of NOVs meeting criteria)</i>	2	10%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 58%

>> **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 two similar NOVs, four other NOVs, and two 1660 orders.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 58%

Screening Date 13-Apr-2009	Docket No. 2009-0525-AIR-E	PCW	
Respondent BASF Corporation	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37446	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN100225689			
Media [Statute] Air			
Enf. Coordinator Miriam Hall			
Violation Number 1			
Rule Cite(s)	30 Tex. Admin. Code §§ 101.20(1), 116.115(c), and 117.310(c)(1), 40 Code of Federal Regulations § 60.612(a), Permit No. 8084A, Special Condition No. 1, and Tex. Health & Safety Code § 382.085(b)		
Violation Description	Failed to comply with the permitted emissions rates at Scrubber Outlet Stack No. 2 (Emission Point No. 112) for nitrogen oxides ("NOx"), carbon monoxide ("CO"), and volatile organic compounds ("VOC"). Specifically, during a stack test conducted on December 13, 2007, NOx emissions were 0.09 pounds per hour ("lb/hr"), whereas the permitted limit was 0.01 lb/hr. CO emissions were 79.93 lb/hr and 700.19 parts per million ("ppm") at 3% oxygen, whereas the permitted limits are 22.8 lb/hr and 400 ppm, respectively. VOC emissions were 31.61 lb/hr and 174.7 ppm, whereas the permitted limits were 9.04 lb/hr and 20 ppm, respectively.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
OR	Harm		
	Major	Moderate	Minor
Release	Actual	Potential	Percent
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	50%
>> Programmatic Matrix			
	Falsification	Major	Moderate
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			Percent
			0%
Matrix Notes	Human health or the environment has been exposed to significant emissions which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.		
Adjustment		\$5,000	
		\$5,000	
Violation Events			
Number of Violation Events		2	Number of violation days
		97	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Violation Base Penalty			\$10,000
Two quarterly events are recommended for the days the catalytic oxidizer was operating from the date of the stack test (December 13, 2007) to the compliance date (April 16, 2008).			
Good Faith Efforts to Comply			25.0% Reduction
			\$2,500
	Extraordinary	Before NOV	NOV to EDRP/Settlement Offer
	Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	N/A	<input type="checkbox"/>	(mark with x)
Notes	The Respondent came into complete compliance when the permit was altered on April 16, 2008. The NOE was issued March 5, 2009.		
Violation Subtotal			\$7,500
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount		\$1,804	Violation Final Penalty Total
			\$13,300
This violation Final Assessed Penalty (adjusted for limits)			\$13,300

Economic Benefit Worksheet

Respondent: BASF Corporation
Case ID No.: 37446
Reg. Ent. Reference No.: RN100225689
Media: Air
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description: No commas or \$

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
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
Stack Test				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	13-Dec-2007	16-Apr-2008	0.34	\$9	n/a	\$9
Repairs	\$208,000	13-Dec-2007	14-Feb-2008	0.17	\$1,795	n/a	\$1,795

Notes for DELAYED costs

The economic benefit includes the cost of repairs to fix manufacturer defects in the new catalytic oxidizer/incinerator which had multiple weld failures and obtaining a permit alteration. The economic benefit is calculated from the first documented violation date (stack test) to completion and/or compliance date.

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

\$208,500

TOTAL

\$1,804

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600124895 BASF Corporation	Classification: AVERAGE	Rating: 2.72
Regulated Entity:	RN100225689 BASF PASADENA	Classification: AVERAGE	Site Rating: 10.59

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG1249P
	AIR OPERATING PERMITS	PERMIT	1331
	AIR NEW SOURCE PERMITS	PERMIT	8084A
	AIR NEW SOURCE PERMITS	PERMIT	8199A
	AIR NEW SOURCE PERMITS	PERMIT	17778
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG1249P
	AIR NEW SOURCE PERMITS	PERMIT	54877
	AIR NEW SOURCE PERMITS	AFS NUM	4820100422
	AIR NEW SOURCE PERMITS	REGISTRATION	78822
	AIR NEW SOURCE PERMITS	REGISTRATION	81141
	AIR NEW SOURCE PERMITS	REGISTRATION	81952
	AIR NEW SOURCE PERMITS	REGISTRATION	86601
	AIR NEW SOURCE PERMITS	REGISTRATION	84114
	AIR NEW SOURCE PERMITS	PERMIT	83808
	AIR NEW SOURCE PERMITS	REGISTRATION	87081
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1011974
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	33849
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD980808778
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	33849
	WATER LICENSING	LICENSE	1011974
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50385

Location: 4403 LAPORTE HWY 225, PASADENA, TX, 77501

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 13, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 13, 2004 to April 13, 2009

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 08/20/2005	ADMINORDER 2003-0157-MLM-E
Classification: Moderate	
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c) 5C THC Chapter 382, SubChapter A 382.085(b)	
Rqmt Prov: SC18 PERMIT SC8 PERMIT	
Description: Failure to perform stack sampling and other testing.	
Classification: Moderate	

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to make the first attempt to repair within five days after the leak is found.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.356(2)(F)(iv)
30 TAC Chapter 115, SubChapter D 115.356(2)(F)(vi)
5C THC Chapter 382, SubChapter A 382.085(b)

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

Classification: Moderate

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

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

Classification: Moderate

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

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

Classification: Major

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

Description: Failure to submit recertification of compliance for BIF.

Classification: Moderate

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

Rqmt Prov: Special Condition No. 1 OP

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

Effective Date: 09/21/2007 ADMINORDER 2006-1681-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(2)(ii)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(7)(ii)

Rqmt Prov: Permit Provision V.I.3.b.1 PERMIT
Permit Provision V.I.3.b.2 PERMIT

Description: Facility exceeded permit operating parameter for carbon monoxide when burning hazardous waste on April 15, 2006.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(d)

Rqmt Prov: Permit Provision III.D. PERMIT

Description: Failure to document corrective actions on boiler inspection logs.

Classification: Minor

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

Rqmt Prov: Permit Provision II.C.1.i. PERMIT

Description: Failure to update the facility's Notice of Registration for waste streams and waste management units.

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	04/20/2004	(265881)
2	05/12/2004	(266852)
3	08/24/2004	(285394)
4	08/31/2004	(292289)
5	09/13/2004	(291896)
6	09/30/2004	(286896)
7	09/30/2004	(286946)

8 10/08/2004 (335638)
 9 12/17/2004 (340005)
 10 05/26/2005 (377479)
 11 05/26/2005 (377481)
 12 05/26/2005 (377482)
 13 05/26/2005 (377483)
 14 08/05/2005 (402692)
 15 08/10/2005 (404088)
 16 08/23/2005 (401711)
 17 02/21/2006 (454606)
 18 02/23/2006 (450166)
 19 02/25/2006 (457007)
 20 02/28/2006 (457029)
 21 03/09/2006 (457664)
 22 05/05/2006 (461812)
 23 05/17/2006 (465062)
 24 05/26/2006 (467437)
 25 05/26/2006 (467498)
 26 06/12/2006 (482145)
 27 08/07/2006 (482237)
 28 10/16/2006 (515183)
 29 12/07/2006 (533242)
 30 07/11/2007 (537471)
 31 07/30/2007 (566647)
 32 07/30/2007 (566648)
 33 08/09/2007 (566650)
 34 08/22/2007 (566649)
 35 08/28/2007 (543581)
 36 09/20/2007 (593444)
 37 12/11/2007 (610571)
 38 03/03/2008 (611378)
 39 03/21/2008 (638596)
 40 05/07/2008 (636631)
 41 05/19/2008 (653218)
 42 06/05/2008 (654468)
 43 06/15/2008 (434901)
 44 08/29/2008 (688534)
 45 02/06/2009 (671608)
 46 03/05/2009 (727059)
 47 03/16/2009 (682025)

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

Date: 05/26/2005 (377479) CN600124895
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)
 Description: Failure to mark the correct accumulation start date on a drum.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 335, SubChapter A 335.6(c)
 PROVISION II.C.1.i. PERMIT
 Description: Failure to update the NOR.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter C 335.69(a)(1)(B)
 40 CFR Chapter 262, SubChapter I, PT 262, SubPT C 262.34(a)(1)(ii)
 40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(c)
 Description: Failure to document daily tank inspections.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
 PROVISION II.C.1.i. PERMIT
 Description: Failure to submit a correct Annual Waste Summary in 2002 and 2004.
 Date: 05/26/2005 (377481) CN600124895

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(8)(iv)
PROVISION II.C.1.p. PERMIT
Description: Failure to perform automatic waste feed cutoff test at least once every 7 days.

Self Report? NO Classification: Moderate
Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C 270.30(a)
PROVISION V.A.1. PERMIT
Description: Failure to identify the boiler with the permit unit number.
Date: 05/06/2006 (461812) CN600124895

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)
8199A, SC 1 PERMIT
O-01331, STC 13 OP
Description: Failure to maintain the emissions from marine loading (EPN: MVLOADING) within maximum allowable emission rates as permitted in the NSR permit 8199A.
Date: 08/09/2007 (566650) CN600124895

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(2)(ii)
PROVISION V.I.3.b.(1) PERMIT
Description: Operating records indicated that waste PA residues were burned in the boiler while CO levels were above the permit operating limit of 100 ppmv.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter H 335.221(a)(6)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(8)(i)(A)
40 CFR Chapter 266, SubChapter I, PT 266, SubPT H 266.102(e)(8)(i)(B)
PROVISION V.I.7.a. PERMIT
Description: Failure to record feed rate data for PA residues and CO data.
Date: 08/22/2007 (566649) CN600124895

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(2)
PROVISION II.C.1.i. PERMIT
Description: Failure to submit a correct AWS in 2005 and 2006.
Date: 05/08/2008 (636631) CN600124895

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)
5C THSC Chapter 382 382.085(b)
8084A, SC 10E PERMIT
O-01331, SC 14 OP
Description: Failure to plug/cap all open ended lines.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)
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 A 60.18(c)(3)(ii)
5C THSC Chapter 382 382.085(b)
8199A, SC 11A PERMIT
O-01331, SC 14 OP
Description: Failure to maintain the required net heating values on the flares.

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)
8199A, SC 10 PERMIT
O-01331, SC 14 OP
Description: Failure to maintain boiler NOx emissions hourly average rate within the permitted limit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.764(a)(2)
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)

8199A, SC 12 PERMIT

O-01331, SC 14 OP

Description: Failure to take readings from the Cooling Tower HRVOC analyzer.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BASF CORPORATION
RN100225689

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0525-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 BASF Corporation ("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 4403 LaPorte Highway 225 in Pasadena, Harris 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 March 10, 2009.
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 Thirteen Thousand Three Hundred Dollars (\$13,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Ten Thousand Six Hundred Forty Dollars (\$10,640) of the administrative penalty and Two Thousand Six Hundred Sixty Dollars (\$2,660) 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 recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On February 14, 2008, completed repairs to the catalytic oxidizer/incinerator to fix manufacturer defects;
 - b. On February 15, 2008, conducted a stack test on Scrubber Outlet Stack No. 2 (Emission Point No. 112) which demonstrated compliance with all emission limits except for nitrogen oxides ("NO_x"); and
 - c. On April 16, 2008, received a permit alteration to increase the hourly NO_x emission rate at Scrubber Outlet Stack No. 2.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to comply with the permitted emissions rates at Scrubber Outlet Stack No. 2 (Emission Point No. 112) for NO_x, carbon monoxide ("CO"), and volatile organic compounds ("VOC"), in violation of 30 TEX. ADMIN. CODE §§ 101.20(1), 116.115(c), and 117.310(c)(1), 40 CODE OF FEDERAL REGULATIONS § 60.612(a), Permit No. 8084A, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on February 12, 2009. Specifically, during a stack test conducted on December 13, 2007, NO_x emissions were 0.09 pounds per hour ("lb/hr"), whereas the permitted limit was 0.01 lb/hr. CO emissions were 79.93 lb/hr and 700.19 parts per million ("ppm") at 3% oxygen, whereas

the permitted limits are 22.8 lb/hr and 400 ppm, respectively. VOC emissions were 31.61 lb/hr and 174.7 ppm, whereas the permitted limits were 9.04 lb/hr and 20 ppm, respectively.

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: BASF Corporation, Docket No. 2009-0525-AIR-E" to:

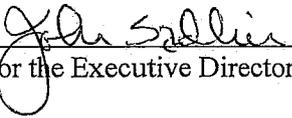
Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. 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.
3. 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.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
5. 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



For the Executive Director

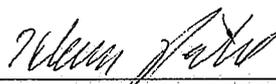
Date 7/31/2009

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.



Signature

Date 06/09/09

KLAUS DIEHL

Name (Printed or typed)
Authorized Representative of
BASF Corporation

Title SITE MANAGER

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.