

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1386-AIR-E TCEQ ID: RN100225689 CASE NO.: 38230

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 La Porte 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 January 18, 2010. 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. Rex Shuff, Environmental Specialist, BASF Corporation, 4403 La Porte Highway 225, Pasadena, Texas 77501 Mr. Klaus Dichl, Site Manager, BASF Corporation, 4403 La Porte Highway 225, Pasadena, Texas 77501 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 18, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>AIR</p> <p>1) Failure to maintain the minimum net heating value of 300 British Thermal Unit per standard cubic feet per minute ("BTU/scfm") on flares FL-1 and FL-2 in the Cyclic and Crude Intermediates Area. Specifically, on three occasions between December 18, 2007 to April 11, 2008, flare FL-1 and on two occasions during July 2008, flare FL-2, were operated below the minimum net heating value for a total of 141 hours [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 11A, Federal Operating Permit ("FOP") No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failure to remain below the maximum nitrogen oxide ("NOx") level of 0.1 pound ("lb") NOx per million BTU ("MMBTU") on boiler F8. Specifically, on four occasions between December 18, 2007 and August 6, 2008, the NOx levels on boiler F8 in the Cyclic and Crude Intermediates Area were above the permitted limit [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 10, FOP No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$11,160</p> <p>Total Deferred: \$2,232 <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: \$8,928</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 installed an audible alarm on June 15, 2009, which will activate whenever the data control system does not receive any HRVOC information from the on-line chromatograph for a time period greater than one hour.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order:</p> <p>i. Implement measures to ensure that the BTU values at the flares are being maintained at the appropriate level; and</p> <p>ii. Either submit a request for a permit amendment to Air Permit No. 8199A to increase the current permit limit of 0.1 lb NOx/MMBTU during startup and shutdown, or implement other measures necessary to ensure compliance. If an amendment is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment within 30 days after the date of such requests, or by any other deadline specified in writing.</p> <p>b. Within 105 days after the effective date of this Agreed Order, submit written certification to demonstrate compliance with Ordering Provision a;</p> <p>c. Within 180 days after the effective date of this Agreed Order, if a request for permit amendment has been submitted, submit written certification that Air Permit No. 8199A has been amended to increase the current permit limit of 0.1 lb NOx/MMBTU during startup and shutdown. If an amendment has not been issued by that date or within the period of any extension granted by TCEQ, boiler F8 will remain subject to the existing NOx/MMBTU limit until such limit is adjusted, and Respondent shall certify that it has taken all reasonable measures to</p>

<p>3) Failure to take readings from the highly reactive volatile organic compound ("HRVOC") analyzer at cooling tower CTWR-1. Specifically, on three occasions between December 26, 2007 and August 18, 2008, the HRVOC analyzer readings in the Cyclic and Crude Intermediates Area were not taken [30 TEX. ADMIN. CODE §§ 115.764, 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 12, FOP No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>		<p>operate boiler F8 to maintain NO_x emissions within the existing NO_x/MMBTU limit; and</p> <p>d. The certifications referenced in Ordering Provisions b. and c. shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>
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Additional ID No(s): HG1249P



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	24-Aug-2009	Screening	25-Aug-2008	EPA Due	
	PCW	27-Aug-2008				

RESPONDENT/FACILITY INFORMATION	
Respondent	BASF Corporation
Reg. Ent. Ref. No.	RN100226689
Facility/Site Region	12-Houston
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38230	No. of Violations	3
Docket No.	2009-1386-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Nadia Hameed
		EC's Team	Enforcement Team 5
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$7,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **63.0% Enhancement** **Subtotals 2, 3, & 7** **\$4,410**

Notes Penalty enhancement due to two 1660 agreed orders with denial of liability, three same or similar NOV's, and four non-similar NOV's.

Culpability **No** **0.0% Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$250**

Economic Benefit **0.0% Enhancement** **Subtotal 6** **\$0**

Total EB Amounts **\$2,188**
 Approx. Cost of Compliance **\$20,100**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$11,160**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$11,160**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$11,160**

DEFERRAL **20.0%** **Reduction** **Adjustment** **-\$2,232**

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 **\$8,928**

Screening Date: 25-Aug-2008

Docket No.: 2009-1386-AIR-E

PCW

Respondent: BASF Corporation

Policy Revision 2 (September 2002)

Case ID No.: 38230

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN100225689

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 NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	3	15%
	Other written NOVs	4	8%
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) 63%

>> 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 with denial of liability, three same or similar NOV's, and four non-similar NOV's.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 63%

Screening Date 25-Aug-2008 **Docket No.** 2009-1386-AIR-E **PCW**
Respondent BASF Corporation *Policy Revision 2 (September 2002)*
Case ID No. 38230 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN100225689
Media [Statute] Air
Enf. Coordinator Nadia Hameed
Violation Number 1
Rule Cite(s) 30 Tex. Admin. Code §§ 115.722(d), 116.115(c) and 122.143(4), 40 Code of Federal Regulations ("CFR") § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 11A, Federal Operating Permit ("FOP") No. 1331, Special Term and Condition 14, and Tex. Health & Safety Code § 382.085(b)
Violation Description Failed to maintain the minimum net heating value of 300 British Thermal Unit per standard cubic feet per minute ("BTU/scfm") on flares FL-1 and FL-2 in the Cyclic and Crude Intermediates Area. Specifically, on three occasions between December 18, 2007 to April 11, 2008, flare FL-1 and on two occasions during July 2008, flare FL-2, were operated for a period of 141 hours below the minimum net heating value.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
	Potential		x	10%

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				
				0%

Matrix Notes Human health or the environment had the potential to be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 **Number of violation days** 6
 mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000
 One single event is recommended based on the information reviewed during the July 21, 2009 investigation.

Good Faith Efforts to Comply 0.0% Reduction \$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 for this violation.	

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation **Statutory Limit Test**
Estimated EB Amount \$1,636 **Violation Final Penalty Total** \$1,630
This violation Final Assessed Penalty (adjusted for limits) \$1,630

Economic Benefit Worksheet

Respondent BASF Corporation
Case ID No. 38230
Reg. Ent. Reference No. RN100225689
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
<i>(No commas or \$)</i>							

Delayed Costs

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
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)	\$15,000	18-Dec-2007	21-Feb-2010	2.18	\$1,636	n/a	\$1,636

Notes for DELAYED costs

Estimated cost to ensure that the BTU values at the flares are maintained at appropriate levels. The date required is the first reported date of violation documented in the deviation report. The final date is the date corrective actions are expected to be completed.

Avoided Costs

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

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

\$15,000

TOTAL

\$1,636

Screening Date: 25-Aug-2008 **Docket No.:** 2009-1386-AIR-E **PCW**

Respondent: BASF Corporation *Policy Revision 2 (September 2002)*

Case ID No.: 38230 *PCW Revision October 30, 2008*

Reg. Ent. Reference No.: RN100225689

Media [Statute]: Air

Enf. Coordinator: Nadia Hameed

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 10, FOP No. 1331, Special Term and Condition 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description: Failed to remain below the maximum nitrogen oxide ("NOx") level of 0.1 pound NOx per million BTU ("MMBTU") on boiler F8. Specifically, on four occasions between December 18, 2007 and August 6, 2008, the NOx levels on boiler F8 in the Cyclic and Crude Intermediates Area were above the permitted limit.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	25%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes: Human health or the environment had been exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$7,500

\$2,500

Violation Events

Number of Violation Events: 2 4 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty: \$5,000

Two quarterly events are recommended based on the information reviewed during the July 21, 2009 investigation.

Good Faith Efforts to Comply

0.0% Reduction **\$0**

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

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

Violation Subtotal: \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$545

Violation Final Penalty Total: \$8,150

This violation Final Assessed Penalty (adjusted for limits): \$8,150

Economic Benefit Worksheet

Respondent: BASF Corporation
Case ID No.: 38230
Reg. Ent. Reference No.: RN100225689
Media: Air
Violation No.: 2

Percent Interest	Years of Depreciation
6.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

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
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	18-Dec-2007	21-Feb-2010	2.18	\$545	n/a	\$545
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of obtaining a permit amendment to allow the NOx to be exceeded during start-up and shut down. The date required is the date the exceedances were first documented in the deviation report. The final date is the date corrective actions are expected to be completed.

Avoided Costs

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

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

\$5,000

TOTAL

\$545

Screening Date: 25-Aug-2008 **Docket No.:** 2009-1386-AIR-E **PCW**
Respondent: BASF Corporation *Policy Revision 2 (September 2002)*
Case ID No.: 38230 *PCW Revision October 30, 2008*
Reg. Ent. Reference No.: RN100225689
Media [Statute]: Air
Enf. Coordinator: Nadia Hameed
Violation Number: 3

Rule Cite(s): 30 Tex. Admin. Code §§ 115.764, 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 12, FOP No. 1331, Special Term and Condition 14, and Tex. Health & Safety Code § 382.085(b)

Violation Description: Failed to take readings from the highly reactive volatile organic compound ("HRVOC") analyzer at cooling tower CTWR-1. Specifically, on three occasions between December 26, 2007 and August 18, 2008, the HRVOC analyzer readings in the Cyclic and Crude Intermediates Area were not taken.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					10%
Potential			x		

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Human health or the environment had the potential to be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 1 3 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty: \$1,000

One single event is recommended based on the information reviewed during the July 21, 2009 investigation.

Good Faith Efforts to Comply 25.0% Reduction \$250

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

Notes: The Respondent completed the corrective actions on June 15, 2009, before the NOE dated August 18, 2009.

Violation Subtotal: \$750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount: \$7 **Violation Final Penalty Total:** \$1,380

This violation Final Assessed Penalty (adjusted for limits): \$1,380

Economic Benefit Worksheet

Respondent: BASF Corporation
Case ID No.: 38230
Reg. Ent. Reference No.: RN100225889
Media: Air
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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
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)	\$100	26-Dec-2007	15-Jun-2009	1.47	\$7	n/a	\$7

Notes for DELAYED costs

Estimated cost for programming the data control system and installing an alarm when the HRVOC information from the on-line chromatograph is not received within an hour. The date required is the first date the readings were not taken as documented in the deviation report. The final date is the date corrective actions were completed.

Avoided Costs

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

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

\$100	TOTAL	\$7
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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	AFS NUM	4820100422
	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: August 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 24, 2004 to August 24, 2009

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

Name: NHameed Phone: 713-767-3629

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	08/24/2004	(285394)
2	08/31/2004	(292289)
3	09/13/2004	(291896)
4	09/30/2004	(286896)
5	09/30/2004	(286946)
6	10/08/2004	(335638)
7	12/17/2004	(340005)
8	05/26/2005	(377479)
9	05/26/2005	(377481)
10	05/26/2005	(377482)
11	05/26/2005	(377483)
12	08/05/2005	(402692)
13	08/10/2005	(404088)
14	08/23/2005	(401711)
15	02/21/2006	(454606)
16	02/23/2006	(450166)
17	02/25/2006	(457007)
18	02/28/2006	(457029)
19	03/09/2006	(457664)
20	05/05/2006	(461812)
21	05/17/2006	(465062)
22	05/26/2006	(467437)
23	05/26/2006	(467498)
24	06/12/2006	(482145)
25	08/07/2006	(482237)
26	10/16/2006	(515183)
27	12/07/2006	(533242)
28	07/11/2007	(537471)
29	07/30/2007	(566647)
30	07/30/2007	(566648)
31	08/09/2007	(566650)
32	08/22/2007	(566649)
33	08/28/2007	(543581)
34	09/20/2007	(593444)
35	12/11/2007	(610571)
36	03/03/2008	(611378)
37	03/21/2008	(638596)
38	05/07/2008	(636631)
39	05/19/2008	(653218)
40	06/05/2008	(654468)
41	06/15/2008	(434901)
42	08/29/2008	(688534)
43	02/06/2009	(671608)
44	03/05/2009	(727059)
45	03/16/2009	(682025)
46	07/31/2009	(761134)
47	08/13/2009	(749540)
48	08/17/2009	(747037)

E. Written notices of violations (NOV). (GCEDS 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.

Date: 08/18/2009 (747037) **CN600124895**

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)(2)
5C THSC Chapter 382 382.085(b)
Special Condition 11B PERMIT
Special Term and Condition 14 OP

Description: Failure to maintain a continuous pilot flame on the flare. (CATEGORY C4 VIOLATION)

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)
Special Condition 1 PERMIT
Special Term and Condition 14 OP

Description: Failure to stay below MAERT limits. (CATEGORY B13 VIOLATION)

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)
Special Condition 7G PERMIT
Special Term and Condition 14 OP

Description: Failure to keep the pH of the scrubber above the minimum value. (CATEGORY B18 VIOLATION)

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. 2009-1386-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 La Porte 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 August 23, 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 Eleven Thousand One Hundred Sixty Dollars (\$11,160) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eight Thousand Nine Hundred Twenty-Eight Dollars (\$8,928) of the administrative penalty and Two Thousand Two Hundred Thirty-Two Dollars

- (\$2,232) 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 installed an audible alarm on June 15, 2009, which will activate whenever the data control system does not receive any highly reactive volatile organic compound ("HRVOC") information from the on-line chromatograph for a time period greater than one hour.
 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:

1. Failed to maintain the minimum net heating value of 300 British Thermal Unit per standard cubic feet per minute ("BTU/scfm") on flares FL-1 and FL-2 in the Cyclic and Crude Intermediates Area, in violation of 30 TEX. ADMIN. CODE §§ 115.722(d), 116.115(c) and 122.143(4), 40 CODE OF FEDERAL REGULATIONS ("CFR") § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 11A, Federal Operating Permit ("FOP") No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 21, 2009. Specifically, on three occasions between December 18, 2007 to April 11, 2008, flare FL-1 and on two occasions during July 2008, flare FL-2, were operated below the minimum net heating value for a total of 141 hours.
2. Failed to remain below the maximum nitrogen oxide ("NOx") level of 0.1 pound NOx per million BTU ("MMBTU") on boiler F8, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 10, FOP No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on July 21, 2009. Specifically, on four occasions

between December 18, 2007 and August 6, 2008, the NO_x levels on boiler F8 in the Cyclic and Crude Intermediates Area were above the permitted limit.

3. Failed to take readings from the HRVOC analyzer at cooling tower CTWR-1, in violation of 30 TEX. ADMIN. CODE §§ 115.764, 116.115(c) and 122.143(4), 40 CFR § 60.18(c)(3)(ii), Air Permit No. 8199A, Special Condition No. 12, FOP No. 1331, Special Term and Condition 14, and TEX. HEALTH & SAFETY CODE § 382.085(b) as documented during a record review conducted on July 21, 2009. Specifically, on three occasions between December 26, 2007 and August 18, 2008, the HRVOC analyzer readings in the Cyclic and Crude Intermediates Area were not taken.

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. 2009-1386-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 90 days after the effective date of this Agreed Order:
 - i. Implement measures to ensure that the BTU values at the flares are being maintained at the appropriate level;
 - ii. Either submit a request for a permit amendment to Air Permit No. 8199A to increase the current permit limit of 0.1 lb NO_x/MMBTU during startup and shutdown, or implement other measures necessary to ensure compliance. If an amendment is submitted, respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit amendment within 30 days after the date of such requests, or by any other deadline specified in writing;
 - b. Within 105 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below to demonstrate compliance with Ordering Provisions No. 2.a;

- c. Within 180 days after the effective date of this Agreed Order, if a request for permit amendment has been submitted, submit written certification that Air Permit No. 8199A has been amended to increase the current permit limit of 0.1 lb NOx/MMBTU during startup and shutdown. If an amendment has not been issued by that date or within the period of any extension granted by TCEQ, boiler F8 will remain subject to the existing NOx/MMBTU limit until such limit is adjusted, and Respondent shall certify that it has taken all reasonable measures to operate boiler F8 to maintain NOx emissions within the existing NOx/MMBTU limit; and
- d. The certifications referenced in Ordering Provision Nos. 2.b. and 2.c., shall 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines 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 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.
 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 Szolter
For the Executive Director

12/23/2009
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.

Alvin Kelly
Signature

11/02/09
Date

KLAUS DIEHL
Name (Printed or typed)
Authorized Representative of
BASF Corporation

SITE MANAGER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.