

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BASF CORPORATION

AI # 3387

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-MM-19-0107
*
* Enforcement Tracking No.
* MM-CN-11-01319
* AE-CN-16-00422
* WE-CN-17-01155
* HE-PP-16-00241
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SETTLEMENT

The following Settlement is hereby agreed to between BASF Corporation and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owns and/or operates an organic and inorganic chemical manufacturing facility located in Zachary, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On April 11, 2014, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. MM-CN-11-01319 (Exhibit 1),

On August 22, 2017, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-16-00422 (Exhibit 2).

On September 22, 2017, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. HE-PP-16-00241 (Exhibit 3).

On February 27, 2018, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. WE-CN-17-01155 (Exhibit 4).

The following violations, although not cited in the foregoing enforcement action(s), are included within the scope of this settlement:

- A. The Respondent failed to label a container of hazardous waste, which was managed as satellite accumulation, with the words "Hazardous Waste" or other words that identified the contents, in violation of LAC 33:V.1109.E.4. Specifically, one (1) fifty-five (55) gallon drum of hazardous waste, located in the Less Than Ninety (90) Day Storage Area, which accumulated liquid waste from punctured aerosol cans was not labeled. In a written response dated April 2, 2020, a representative of the Respondent stated that the hazardous waste drum was labeled prior to the January 17, 2020 follow-up inspection. Also, the representative of the Respondent stated that the facility personnel has been counseled to ensure all hazardous waste drums are labeled appropriately. Additionally, in an email dated April 16, 2020, a representative of the Respondent stated that the hazardous waste drum described above is no longer onsite.
- B. The Respondent stored regulated hazardous waste for more than ninety (90) days without a permit or other authorization, in violation of LAC 33:V.303.B. Specifically, a review of the facility records revealed that the Respondent stored hazardous waste in tank TP-498A for one hundred one (101) days from April 7, 2017, to July 17, 2017, and subsequently for one hundred eighty-five (185) days from October 24, 2018, to April 27, 2019. The Respondent also stored hazardous waste in tank TP-498B for ninety-three (93) days from October 31, 2017, to February 2, 2018, and subsequently for one hundred thirty-eight (138) days from December 10, 2018, to April 27, 2019. In

a written response dated April 2, 2020, a representative of the Respondent stated that to ensure storage requirements are met; the Respondent will schedule a disposal company to remove any hazardous material in tanks TP-498A and TP-498B from the facility once per week.

- C. The Respondent failed to maintain, at the facility, training records of current facility personnel, until the closure of the facility, as specified in LAC 33:V.1515.E, in accordance with LAC 33.V.4319.A, in violation of LAC 33:V.1109.E.1.e. Specifically, employees' annual waste training records for years 2017 to 2019 were not maintained at the facility, with an exception of one (1) employee. A representative of the Respondent stated the majority of the employees' training records were moved to an off-site records storage facility. However, the Respondent was unable to provide the records at the time of the inspection or subsequent to the inspection. In a written response dated April 2, 2020, a representative of the Respondent stated the Respondent began decommissioning activities at the facility in the second half of 2019, and moved the majority of the records off-site. The response also stated that the Respondent will keep required training records in a portable building or trailer onsite for any persons in which training is required as long as any hazardous waste is generated at the facility.
- D. The Respondent failed to ensure hazardous waste manifests contain all applicable EPA hazardous waste codes, in violation of LAC 33:V.1107.B.1.d. Specifically, the manifest 006761044SKS did not include any hazardous waste codes on lines 9b.2 and 9b.3 of the manifest for the waste corrosive liquids. In a written response dated April 2, 2020, a representative of the Respondent stated the hazardous waste description was identical for lines 9b.1, 9b.2, and 9b.3 of the manifest; therefore, the D002 waste code

applied, but was left off of the manifest. The response also stated that the Respondent has counseled the representative responsible for the completion of the facility's manifests to ensure all hazardous waste codes are recorded on each line of the manifest, even if the hazardous waste codes are the same.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of EIGHTY-THREE THOUSAND AND NO/100 DOLLARS (\$83,000.00), of which Four Thousand Five Hundred Ten and 82/100 Dollars (\$4,510.82) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), permit record(s), the Notice of Potential Penalty and Consolidated Compliance Orders & Notices of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

BASF CORPORATION

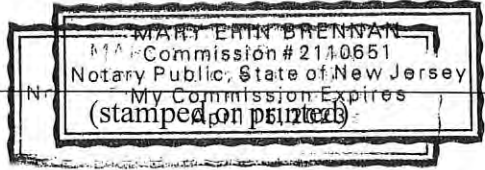
BY: *[Signature]*
(Signature)

C. R. WALTZ
(Printed)

TITLE: SITES MANAGER

THUS DONE AND SIGNED in duplicate original before me this 10th day of December, 20 20, at Hillsborough N.J.

[Signature]
NOTARY PUBLIC (ID # _____)

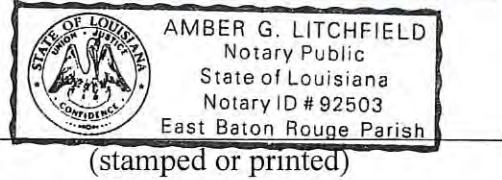


LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: *[Signature]*
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of March, 20 21, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



Approved: *[Signature]*
Lourdes Iturralde, Assistant Secretary

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

April 11, 2014

CERTIFIED MAIL (7005 1820 0002 2365 5800)
RETURN RECEIPT REQUESTED

BASF CORPORATION
c/o C T Corporation System
Agent for Service of Process
5615 Corporate Boulevard, Suite 400B
Baton Rouge, Louisiana 70808

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. MM-CN-11-01319
AGENCY INTEREST NO. 3387**

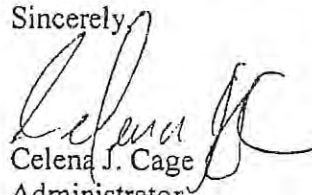
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **BASF CORPORATION (RESPONDENT)** for the violations described herein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Craig Easley at (225) 219-3735.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/KCE/kce
Alt ID No. LAD092104389
Attachment



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

BASF CORPORATION
EAST BATON ROUGE PARISH
ALT ID NO. LAD092104389

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, ET SEQ.

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ENFORCEMENT TRACKING NO.

MM-CN-11-01319

AGENCY INTEREST NO.

3387

CONSOLIDATED

COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BASF CORPORATION (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates an organic and inorganic chemical manufacturing facility formerly known to the Department as Novolyte Performance Materials, LLC located at 111 West Irene Road, Zachary, East Baton Rouge Parish, Louisiana. The facility is a large quantity generator of hazardous waste and operates under the EPA Identification Number LAD092104389. The Respondent does not have a permit or other authorization to dispose of solid waste and/or hazardous waste at the above-referenced facility.

II.

On or about April 13, 2011, the Department's Single Point of Contact (SPOC) received a citizen complaint regarding alleged environmental violations occurring at the above-referenced facility. In response to the complaint, the Department conducted an inspection of the facility on or about April 18 & 19, 2011, in order to determine compliance with the Louisiana Solid and Hazardous Waste Regulations. The Department also conducted a follow-up inspection at the facility on or about May 12, 2011, in order to document corrective actions implemented by the facility to address areas of concern/violations noted during the Department's April 18 & 19, 2011 inspection.

III.

At the time of the Department's April 18 & 19, 2011 inspection, the facility was owned and/or operated by Novolyte Performance Materials, LLC (Novolyte) which had previously changed its name from Novolyte Technologies, Inc. on January 31, 2011. Novolyte took over ownership/operation of the facility in October 2008 after purchasing the facility from Ferro Corporation. Subsequent to the Department's April 18 & 19, 2011 inspection, Novolyte was acquired by BASF Corporation (the Respondent) on October 26, 2012, following a corporate merger in which Novolyte was the non-surviving corporate entity. BASF Corporation has been designated as the Respondent in this **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** since BASF Corporation assumed ownership, operation, and liability for the facility following its acquisition of Novolyte. However, Novolyte was the owner/operator of the facility at the time of the Department's April 18 & 19, 2011 inspection.

IV.

During the Department's April 18 & 19, 2011 inspection, it was revealed that the facility's Phosphene Unit (also known as the BzPA Unit) generates a waste carbon that had previously been determined to be classified as, managed as, and disposed as an industrial solid waste by Novolyte. Activated carbon is utilized in the BzPA Unit to scrub benzene from hydrochloric acid byproduct. Spent waste carbon removed from the BzPA Unit is loaded into super sacks and stored on a concrete slab near the BzPa Unit. During the inspection, inspectors noted that the concrete slab where the super sacks containing the spent carbon were staged had no roof or cover. Additionally, during the inspection, inspectors observed spills of waste carbon to unprotected soils in several locations in the vicinity of the BzPA Unit. According to statements provided by facility representatives during the inspection, this waste carbon was periodically mixed with dewatered biotreatment sludge removed from the facility's

on-site wastewater treatment system and then transported to and disposed at a permitted industrial solid waste landfill.

V.

During the above-referenced inspection, the Department reviewed an analytical report by ENTEK Environmental Laboratories, Inc. for Ferro Corporation dated October 4, 1994 (the owner/operator of the facility at the time). According to the report, a sample of waste carbon from the point of generation at the BzPA Unit had a Toxicity Characteristic Leaching Procedure [TCLP] benzene concentration of 5.4 mg/L. Based upon this benzene concentration, the BzBA waste carbon would be characteristically hazardous for benzene (D018). Additional sampling and analysis of BzPA waste carbon (from the BzPA Unit) conducted in 2011 yielded a TCLP benzene concentration of 9.2 mg/L. This result confirms that BzBA waste carbon exiting the BzPA Unit would be characteristically hazardous for benzene (D018). During the Department's April 18 & 19, 2011 inspection, inspectors documented that the BzPA waste carbon was stored in open super sacks that were allowed to remain exposed to the elements for extended periods of time (often in excess of 6 months) prior to being shipped off-site for disposal. Additionally, some waste carbon comes in contact with the ground due to spillage. The Department also discovered during an interview with facility representatives that it was common practice to mix BzPA waste carbon and dewatered biotreatment sludge from the wastewater treatment system in roll-off containers. Roll-off containers of this waste carbon/biotreatment sludge mixture were then shipped to a permitted industrial solid waste landfill.

VI.

On or about April 18 & 19, 2011, the Department conducted an inspection at the above-referenced facility to determine compliance with the Louisiana Hazardous Waste Regulations. The inspection revealed the following violations:

- A. Novolyte stored hazardous waste without a permit or interim status, as required by LAC 33:V.303.B. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). As described in Findings of Fact Paragraph V, during the inspection the Department documented numerous super sacks containing D018 hazardous waste that were stored onsite at the facility for periods well in excess of the ninety (90) days allowed for large quantity generators of hazardous waste. The Department observed that all

hazardous waste carbon that had been improperly disposed at the facility had been removed and/or properly containerized on April 19, 2011.

- B. Novolyte disposed hazardous waste without a permit or interim status, as required by LAC 33:V.303.B. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, the facility failed to clean up spills of the hazardous waste carbon observed spilled on the ground. The Department documented that all hazardous waste carbon improperly disposed at the facility had been removed and or properly containerized on April 19, 2011.
- C. Novolyte treated hazardous waste without a permit or interim status, as required by LAC 33:V.303.B. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). The waste carbon was subsequently stored and/or treated in open bulk bags. The waste carbon was subsequently placed in open roll-off containers and mixed with dewatered biotreatment sludge. The treatment of that hazardous waste through volatilization and/or dilution failed to meet the specific conditions under which a generator is allowed to treat its on-site generated hazardous waste without applying for or obtaining a hazardous waste operating permit or other authorization. The Department documented that Novolyte had adequately addressed the violation during the May 12, 2011 follow-up inspection.
- D. Novolyte failed to make a proper determination whether a generated solid waste was a hazardous waste, as required by LAC 33:V.1103. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, according to the facility representatives there is no documentation available to determine how long the waste carbon was stored in the open bulk bags on the slab, or how long the spillage has been on the slab/ground. However, the facility failed to clean up spills of the hazardous waste carbon that was observed spilled on the ground. During the April 19, 2011 inspection the Department documented that Novolyte had determined that the waste was hazardous and had begun to manage the waste accordingly.

- E. Novolyte failed to control air pollutant emissions from containers used to store and treat hazardous waste in accordance with the applicable requirements of LAC 33:V.Chapter 43, Subchapter V, as required by LAC 33:V.1109.E.1.a.i. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, the facility failed to control air pollutant emissions from the bulk bags and roll-off containers used to store and/or treat the waste carbon at or near the BzPA Unit and BzPA back slab. The Department documented that Novolyte had adequately addressed the violation during the May 12, 2011 follow-up inspection.
- F. Novolyte failed to utilize the applicable hazardous waste container management requirements specified in LAC 33:V.2103, 2105, 2107, 2109.A, 2113, 2115, as required by LAC 33:V.1109.E.1.a.i. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, the Department documented that Novolyte had adequately addressed the violation during the May 12, 2011 follow-up inspection.
- G. Novolyte failed to provide proper training for personnel engaged in hazardous waste management as specified in LAC 33:V.1515 through LAC 33:V.4319, as required by LAC 33:V.1109.E.1.e. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, Novolyte failed to provide documentation regarding annual RCRA training for four (4) operators managing hazardous waste.
- H. Novolyte failed to report to the Department information concerning the treatment and storage of hazardous waste as required by LAC 33:V.1111.B.2. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic hazardous waste (D018). However, the facility failed to include relevant information on the annual hazardous waste reports submitted to the Department regarding the treatment, storage and disposal of the waste carbon.
- I. Novolyte failed to clean up spills of a hazardous waste in a timely manner as required by LAC 33:V.1121.A. Specifically, based upon the concentrations of benzene detected in the waste carbon removed from the BzPA Unit, the waste carbon was a characteristic

hazardous waste (D018). However, the facility failed to clean up spills of the waste carbon at and near the point of generation (i.e., inside the concrete containment underneath the carbon bed filter at the BzPA Unit). The Department documented that Novolyte had adequately addressed the violation on April 19, 2011.

- J. Novolyte failed to properly dispose all solid waste at a permitted solid waste facility as required by LAC 33:VII.315.C. Specifically, solid waste spilled to the ground next to the drum crushing unit and the roll-off container in the wastewater treatment area. Department inspectors verified during the April 19, 2011 inspection, that the facility had removed the contaminated soil and managed it as a non-hazardous waste. The contaminated soil was placed in a 55-gallon container which was properly closed and labeled and then stored in the non-hazardous waste container storage area.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To submit to the Office of Environmental Compliance, Enforcement Division, within thirty (30) days of receipt of this **COMPLIANCE ORDER**, the documents and records specified in LAC 33:V.1515.D in order to demonstrate compliance with the personnel training requirements specified in LAC 33:V.1515.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report providing estimates of the volume of BzPA waste carbon generated from November 2008 - April 2011 that were managed and disposed as non-hazardous waste. These estimates shall be supported by appropriate records/calculations.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report shall also address any and all procedural revisions and/or corrective actions identified as part of the review required under this **COMPLIANCE**

ORDER. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Craig Easley
Re: Enforcement Tracking No. MM-CN-11-01319
Agency Interest No. 3387

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. MM-CN-11-01319
Agency Interest No. 3387

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Craig Easley at (225) 219-3735 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

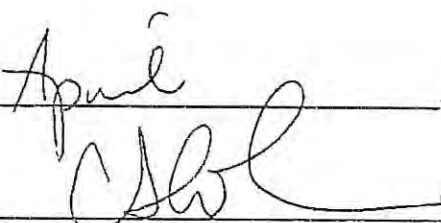
III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 11 day of April, 2014.


Cheryl Sonnier Nolan
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Craig Easley

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

August 22, 2017

CERTIFIED MAIL (7004 2510 0006 3853 4435)
RETURN RECEIPT REQUESTED

BASF CORPORATION
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Dr.
Baton Rouge, LA 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. AE-CN-16-00422
AGENCY INTEREST NO. 3387**

Dear Sir(s):

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **BASF CORPORATION (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Lauren Upton at (225) 219-3093.

Sincerely,

A handwritten signature in black ink, appearing to read "Celena J. Cage".

Celena J. Cage
Administrator
Enforcement Division

CJC/LAU/lau
Alt ID No. 0840-00023
Attachment



c: BASF Zachary
111 West Irene Rd.
Zachary, LA 70791

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

IN THE MATTER OF

BASF CORPORATION
EAST BATON ROUGE PARISH
ALT ID NO. 0840-00023

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, ET SEQ.

*
*
* ENFORCEMENT TRACKING NO.
*
* AE-CN-16-00422
*
* AGENCY INTEREST NO.
*
* 3387
*

CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BASF CORPORATION (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates the Zachary Site (facility), a specialty chemicals manufacturing and processing facility, located at 111 West Irene Road in Zachary, East Baton Rouge Parish, Louisiana. The facility currently operates under Air Permit No. 0840-00023-19 issued on September 26, 2014. There has been an ownership change effective October 1, 2012. The ownership changed from Novolyte Performance Materials, LLC to BASF Corporation.

II.

On or about February 16, 2016, through February 18, 2016, the Department conducted a full compliance audit for the Chemical Accident Prevention Program provisions set forth in LAC 33:III.5901. Additionally, the Department conducted a file review for the facility to determine compliance with the Air Quality Regulations on or about August 16, 2017.

While the Department's investigation is not yet complete, the following violations were discovered during the inspection and file review:

- A. The Respondent failed to maintain records supporting the implementation of the Chemical Accident Prevention provisions. Specifically, the Respondent could not provide records of instrumentation inspections prior to an inspection conducted in November 2015. The failure to maintain records supporting the implementation of 40 CFR 68 from October 1, 2012 to November 2015, is a violation of Specific Requirement Nos. 100 and 123 of Air Permit No. 0840-00023-19; LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.200; LAC 33:III.501.C4; and La. R.S. 30:2057(A)(2). According to the February 18, 2016 inspection report, in October 2015, the Respondent created a matrix to facilitate scheduling of future instrument inspections.

- B. The Respondent failed to ensure that inspections and tests of process equipment are consistent with applicable manufacturers' recommendations and good engineering practices. The inspection revealed that four (4) pressure safety valves were not inspected according to good engineering practices. Additionally, five (5) pipe circuit inspections were not conducted according to good engineering practices or every five (5) years. The inspection revealed vessels TR501, TS599, TR518, and TR479 were not monitored for external corrosion every ten (10) years. Each inspection failure is a violation of Specific Requirement No. 123 of Air Permit No. 0840-00023-19; LAC 33:III.5901.A, which incorporates by reference 40 CFR 68.73(d)(3); LAC 33:III.501.C.4; and La. R.S. 30:2057(A)(2).

COMPLIANCE ORDER

Based on the foregoing, the Respondent is **hereby ordered**:

I.

To take, immediately upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the Air Quality Regulations, including, but not limited to, the LAC 33:III.5901 and 40 CFR 68.

II.

To ensure, immediately upon receipt of this **COMPLIANCE ORDER**, that the frequency of inspections and tests of process equipment are consistent with applicable manufacturers' recommendations and good engineering practices.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Lauren Upton
Re: Enforcement Tracking No. AE-CN-16-00422
Agency Interest No. 3387

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. AE-CN-16-00422
Agency Interest No. 3387

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S.

49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed

regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Lauren Upton at (225) 219-3093 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

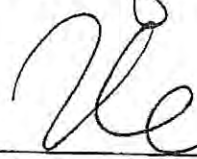
V.

The **NOTICE OF POTENTIAL PENALTY** will not be closed if the Respondent owes outstanding fees to the Department. Please contact the Financial Services Division at 225-219-3865 or via email at _DEQ-WWWFinancialServices@la.gov to determine if you owe outstanding fees.

VI.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 20th day of August, 2017.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Lauren Upton

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE



Enforcement Tracking No.	AE-CN-16-00422	Contact Name	Lauren Upton
Agency Interest (AI) No.	3387	Contact Phone No.	(225) 219-3165
Alternate ID No.	0840-00023		
Respondent:	BASF Corporation	Facility Name:	Zachary Site
	c/o C T Corporation System	Physical Location:	111 West Irene Rd.
	Agent for Service of Process		
	3867 Plaza Tower Dr.	City, State, Zip:	Baton Rouge, LA 70791
	Baton Rouge, LA 70816	Parish:	East Baton Rouge Parish

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 30 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) III of the "Order" portion of the COMPLIANCE ORDER.		
All necessary documents were submitted to the Department within 45 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) of the "Order" portion of the COMPLIANCE ORDER.	N/A	
All necessary documents were submitted to the Department within 90 days of receipt of the COMPLIANCE ORDER in accordance with Paragraph(s) of the "Order" portion of the COMPLIANCE ORDER.	N/A	
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER. Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-CN-16-00422), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (AE-CN-16-00422), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional) = \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted. The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (AE-CN-16-00422) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Lauren Upton

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
September 22, 2017

CERTIFIED MAIL (7016 0910-0000 2672 9129)
RETURN RECEIPT REQUESTED



BASF CORPORATION
c/o C T Corporation System
Agent for Service of Process
3867 Plaza Tower Drive
Baton Rouge, LA 70816

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-PP-16-00241
AGENCY INTEREST NO. 3387**

Dear Sir/Madam:

On or about September 16, 2015, and September 21, 2015, inspections of **BASF CORPORATION – ZACHARY SITE**, an organic and inorganic chemical manufacturing facility, owned and/or operated by **BASF CORPORATION (RESPONDENT)**, were performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Louisiana Hazardous Waste Regulations. The facility is located at 111 West Irene Road in Zachary, East Baton Rouge Parish, Louisiana. The facility is a large quantity generator (LQG) of hazardous waste and operates under the EPA Identification Number LAD092104389.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspections:

- A. The Respondent failed to obtain and submit to the Office of Environmental Services, prior to placing the tank system in service, a written assessment, reviewed and certified by an independent registered professional engineer, attesting that the tank system has sufficient structural integrity and is acceptable for storing or treating hazardous waste, as specified in LAC 33:V.1905.H, in violation of LAC 33:V.1109.E.1.a.ii. Specifically, the Respondent could not provide records of a written assessment for Hazardous Waste Tanks TS-498A and TS-498B reviewed and certified by an independent, qualified professional engineer that the tank system has sufficient structural integrity and is acceptable for storing or treating hazardous waste. On or about April 7, 2016, the Respondent submitted correspondence to the

Department which documented that the tanks were certified by a professional engineer on January 29, 2016. This violation has been addressed.

- B. The Respondent failed to contact the transporter and/or the owner or operator of the designated facility within thirty five (35) days of not receiving a copy of the manifest with the handwritten signature, in violation of LAC 33:V.1111.C.1. Specifically, the facility did not have a signed and dated copy of manifest #001705674GBF from the TSD facility. During the September 21, 2015, inspection, the Respondent obtained a signed and dated copy of manifest #001705674GBF. This violation has been addressed.
- C. The Respondent failed to provide ancillary equipment with secondary containment, as specified in LAC 33:V.1907.F, in violation of LAC 33:V.1109.E.1.a.ii. Specifically, secondary containment was not provided for the following:
- a. The end of the common unloading line of the ancillary equipment was over the top of the containment wall and not within the coated concrete secondary containment. On or about December 21, 2015, the Respondent submitted correspondence to the Department indicating that the unloading line was moved inside the secondary containment. This violation has been addressed.
 - b. One (1) pipeline used by the facility to transfer hazardous waste into the two (2) hazardous waste tanks included threaded connections with approximately forty (40) feet of the pipeline over soil. The threaded connections did not have secondary containment. On or about December 21, 2015, the Respondent submitted correspondence to the Department indicating that the threaded connections had been welded. This violation has been addressed.
 - c. Two (2) underground sections of a hazardous waste pipeline used to transfer hazardous waste to two (2) hazardous waste tanks did not have secondary containment. On or about December 21, 2015, the Respondent submitted correspondence to the Department indicating that these sections of piping had been moved aboveground. This violation has been addressed.
- D. The Respondent failed to use appropriate overfill prevention controls to prevent spills and overflows from tank or containment system, as specified in LAC 33:V.1909.B.2, in violation of LAC 33:V.1109.E.1.a.ii. Specifically, the facility did not equip hazardous waste tanks TS-498A and TS-498B with overfill protection. On or about December 21, 2015, the Respondent submitted correspondence to the Department indicating that the facility added overfill protection through a guided wave radar level transmitter on each tank that controls automated ball valves that close on a high level. This violation has been addressed.
- E. The Respondent failed to label or mark clearly universal waste batteries or a container in which the batteries were contained with any one of the following phrases: "Universal Waste – Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)," in violation of LAC 33:V.3823.A.1. Specifically, during the September 16, 2015, inspection, two (2) universal waste batteries located on a pallet in the less than 90-day hazardous waste container storage area were not labeled with the word "batteries."

On or about September 18, 2015, the batteries were sent off-site. This violation has been addressed.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Ashley Manuel at (225) 219-3794 or Ashley.Manuel@la.gov within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION
POST OFFICE BOX 4312
BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY
REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	HE-PP-16-00241	Contact Name	Ashley Manuel
Agency Interest (AI) No.	3387	Contact Phone No.	(225) 219-3794
Alternate ID No.	LAD092104389		
Respondent:	BASF CORPORATION	Facility Name:	BASF Corporation – Zachary Site
	c/o C T Corporation System	Physical Location:	111 West Irene Road
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Zachary, LA 70791
	Baton Rouge, LA 70816	Parish:	East Baton Rouge

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (HE-PP-16-00241), the Respondent is Interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in **NOTICE OF POTENTIAL PENALTY** (HE-PP-16-00241), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional)= \$ _____
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM-** the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

The Respondent has reviewed the violations noted in **NOTICE OF POTENTIAL PENALTY** (HE-PP-16-00241) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Ashley Manuel

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

February 27, 2018

CERTIFIED MAIL (7004 2510 0006 3854 1181)
RETURN RECEIPT REQUESTED

BASF CORPORATION
c/o C T Corporation System
3867 Plaza Tower Drive
Baton Rouge, Louisiana 70816

**RE: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-CN-17-01155
AGENCY INTEREST NO. 3387**

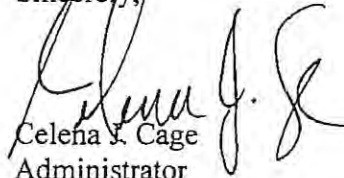
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **BASF CORPORATION (RESPONDENT)** for the violations described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violations cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Bernie Boyett at (225) 219-0783.

Sincerely,


Celesta J. Cage
Administrator
Enforcement Division

CJC/BKB/bkb
Alt ID No. LA0004057
Attachments



**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**BASF CORPORATION
EAST BATON ROUGE PARISH
ALT ID NO. LA0004057**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, ET SEQ.**

*
*
* **ENFORCEMENT TRACKING NO.**
*
* **WE-CN-17-01155**
*
* **AGENCY INTEREST NO.**
*
* **3387**
*
*

**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **BASF CORPORATION (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C) and 30:2050.2.

FINDINGS OF FACT

I.

The Respondent owns and/or operates an existing organic and inorganic chemicals manufacturing facility located at 111 West Irene Road in Zachary, East Baton Rouge Parish, Louisiana. The Department transferred Louisiana Pollutant Discharge Elimination System (LPDES) permit LA0004057 to the Respondent on December 27, 2012, with an effective date of October 1, 2012, and an expiration date of May 31, 2014. The Respondent submitted a written request, dated November 21, 2013, to the Department to extend the deadline for the LPDES permit renewal application until March 1, 2014. The Department granted the extension on December 18, 2013. The Respondent submitted an LPDES permit renewal application to the

Department on or about February 28, 2014, and LPDES permit LA0004057 was administratively continued. LPDES permit LA0004057 was reissued on September 16, 2016, with an effective date of November 1, 2016, and an expiration date of October 31, 2021. Under the terms and conditions of LPDES permit LA0004057, the Respondent is authorized to discharge process wastewater, process area stormwater and stormwater from outside defined/curbed areas, utility wastewaters, sanitary wastewater, laboratory wastewater, treated groundwater remediation water, and miscellaneous wastewaters to the Mississippi River, waters of the state; and post first-flush stormwater, de minimis reverse osmosis reject water, and miscellaneous wastewaters to Bayou Baton Rouge, waters of the state.

II.

A file review conducted by the Department on or about January 9, 2018, revealed that the Respondent had effluent limitation exceedances. These effluent limitation exceedances, as reported by the Respondent on Discharge Monitoring Reports (DMRs), are summarized below:

Monitoring Period End Date	Outfall	Parameter	Permit Limit	Reported Value
04/30/2015	101-A	BOD ₅ Monthly Average - lb/d	45	56
08/31/2017*	001-A	BOD ₅ Monthly Average - lb/d	34	104
		BOD ₅ Daily Maximum - lb/d	88	312
09/30/2017*	001-A	BOD ₅ Monthly Average - lb/d	34	104
		BOD ₅ Daily Maximum - lb/d	88	286

* Failure to submit Non-Compliance Reports

Each effluent exceedance is a violation of LPDES permit LA0004057 (Effluent Limitations and Monitoring Requirements, Page 4 of 8 prior to November 1, 2016, and Page 2 of 5 after November 1, 2016; and Standard Conditions for LPDES Permits, Section A.2), La. R.S. 30:2076(A)(3), and LAC 33:IX.501.A.

III.

A file review conducted by the Department on or about January 9, 2018, revealed that the Respondent failed to submit Non-Compliance Reports for all of the Daily Maximum effluent limitation exceedances that occurred during the monthly monitoring periods indicated by an asterisk (*) in the aforementioned table. Each failure to submit an NCR is a violation of LPDES permit LA0004057 (Part III, Sections A.2 and D.7), La. R.S. 30:2076(A)(3), and LAC 33:IX.2701.L.7.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to achieve and maintain compliance with LPDES permit LA0004057 and the Water Quality Regulations including, but not limited to, complying with all effluent limitations and submitting NCRs for all Daily Maximum effluent limitation exceedances.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violations and actions taken or to be taken to achieve compliance with the Order Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attention: Bernie Boyett
Enforcement Tracking No. WE-CN-17-01155
Agency Interest No. 3387

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the **Enforcement Tracking Number** and **Agency Interest Number**, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: Hearings Clerk, Legal Division
Re: Enforcement Tracking No. WE-CN-17-01155
Agency Interest No. 3387

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than twenty-seven thousand five hundred dollars (\$27,500) for each day of violation for the violation(s) described herein may be assessed. For violations which occurred on August 15, 2004, or after, civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could

result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Bernie Boyett at (225) 219-0783 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.


IV.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY** portion, the Respondent may offer a settlement amount to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached **“CONSOLIDATED COMPLIANCE ORDER AND NOTICE OF POTENTIAL PENALTY REQUEST TO CLOSE”** form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

V.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 27th day of February, 2018.



Lourdes Iturralde
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Bernie Boyett

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
 OFFICE OF ENVIRONMENTAL COMPLIANCE
 ENFORCEMENT DIVISION
 POST OFFICE BOX 4312
 BATON ROUGE, LOUISIANA 70821-4312

**CONSOLIDATED COMPLIANCE ORDER &
 NOTICE OF POTENTIAL PENALTY
 REQUEST TO CLOSE**



Enforcement Tracking No.	WE-CN-17-01155	Contact Name	Bernie Boyett
Agency Interest (AI) No.	3387	Contact Phone No.	(225) 219-0783
Alternate ID No.	LA0004057		
Respondent:	BASF CORPORATION	Facility Name:	BASF Corporation
	c/o C T Corporation System	Physical Location:	111 West Irene Road
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Zachary, LA 70791
	Baton Rouge, Louisiana 70816	Parish:	East Baton Rouge

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph II of the "Order" portion of the COMPLIANCE ORDER .		
All items in the "Findings of Fact" portion of the COMPLIANCE ORDER were addressed and the facility is being operated to meet and maintain the requirements of the "Order" portion of the COMPLIANCE ORDER . Final compliance was achieved as of:		

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

<input type="checkbox"/>	The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:1.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-17-01155) , the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (WE-CN-17-01155) , the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance. <ul style="list-style-type: none"> • Monetary component = \$ _____ • Beneficial Environmental Project (BEP) component (optional)= \$ _____ • DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.
<input type="checkbox"/>	The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (WE-CN-17-01155) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821
Attn: Bernie Boyett

SETTLEMENT AGREEMENTS

WHAT IS A SETTLEMENT AGREEMENT?

Once the Department has determined that a penalty is warranted for a violation, the Assistant Secretary of the Department, with the concurrence of the Attorney General, may enter into a settlement agreement with the Respondent as a means to resolve the Department's claim for a penalty.

HOW DOES THE SETTLEMENT AGREEMENT PROCESS WORK?

To begin the settlement agreement process, the Department must receive a written settlement offer. Once this offer is submitted, it is sent for approval by the Assistant Secretary of the Office of Environmental Compliance. The formal Settlement Agreement is drafted and sent to the Attorney General's office where the Attorney General has a 90 day concurrence period. During this time, the Respondent is required to run a public notice in an official journal and/or newspaper of general circulation in each affected parish. After which, a 45 day public comment period is opened to allow the public to submit comments. Once the Department has received concurrence, the settlement agreement is signed by both parties. The Department then forwards a letter to the responsible party to establish a payment plan and/or beneficial environmental project (BEP).

WHAT SHOULD I INCLUDE IN A SETTLEMENT AGREEMENT?

The Department uses the penalty determination method defined in LAC 33:1.705 as a guideline to accepting settlement offers. The penalty matrix is used to determine a penalty range for each violation based on the two violation specific factors, the nature and gravity of the violation and the degree of risk/impact to human health and property.

	NATURE AND GRAVITY OF THE VIOLATION			
	MAJOR	MODERATE	MINOR	
DEGREE OF RISK OR IMPACT TO HUMAN HEALTH OR PROPERTY	MAJOR	\$32,500 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	MODERATE	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	MINOR	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

Degree of Risk to Human Health or Property

Major: (actual measurable harm or substantial risk of harm) A violation of major impact to an environmental resource or a hazard characterized by high volume and/or frequent occurrence and/or high pollutant concentration.

Moderate: (potential for measurable detrimental impact) A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions

Minor: (no harm or risk of harm) A violation of minor impact are isolated single incidences and that cause no measurable detrimental effect or are administrative in nature.

Nature and Gravity of the Violation

Major: Violations of statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement to such an extent that little or no implementation of requirements occurred.

Moderate: Violations that result in substantially negating the intent of the requirements, but some implementation of the requirements occurred.

Minor: Violations that result in some deviation from the intent of the requirement; however, substantial implementation is demonstrated.

The range is adjusted using the following violator specific factors:

1. history of previous violations or repeated noncompliance;
2. gross revenues generated by the respondent;
3. degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the Respondent has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the violation; and
5. whether the violation and the surrounding circumstances were immediately reported to the department, and whether the violation was concealed or there was an attempt to conceal by the Respondent.



SETTLEMENT AGREEMENTS

Given the previous information, the following formula is used to obtain a penalty amount.

$$\text{Penalty Event Total} = \text{Penalty Event Minimum} + (\text{Adjustment Percentage} \times (\text{Penalty Event Maximum} - \text{Penalty Event Minimum}))$$

After this, the Department adds any monetary benefit of noncompliance to the penalty event. In the event that a monetary benefit is gained due to the delay of a cost that is ultimately paid, the Department adds the applicable judicial interest. Finally, the Department adds all response costs including, but not limited to, the cost of conducting inspections, and the staff time devoted to the preparation of reports and issuing enforcement actions.

WHAT IS A BEP?

A BEP is a project that provides for environmental mitigation which the respondent is not otherwise legally required to perform, but which the defendant/respondent agrees to undertake as a component of the settlement agreement.

Project categories for BEPs include public health, pollution prevention, pollution reduction, environmental restoration and protection, assessments and audits, environmental compliance promotion, and emergency planning, preparedness and response. Other projects may be considered if the Department determines that these projects have environmental merit and is otherwise fully consistent with the intent of the BEP regulations.

WHAT HAPPENS IF MY OFFER IS REJECTED?

If an offer is rejected by the Assistant Secretary, the Legal Division will contact the responsible party, or anyone designated as an appropriate contact in the settlement offer, to discuss any discrepancies.

WHERE CAN I FIND EXAMPLES AND MORE INFORMATION?

Settlement Offers	searchable in <u>EDMS</u> using the following filters Media: Air Quality, Function: Enforcement; Description: Settlement
Settlement Agreements	<u>Enforcement Division's website</u> specific examples can be provided upon request
Penalty Determination Method	<u>LAC 33:I Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:I Chapter 25</u> <u>FAQs</u>
Judicial Interest	<u>provided by the Louisiana State Bar Association</u>

