

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BASF CORPORATION

AI # 2049

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

* **Settlement Tracking No.**
* **SA-HE-21-0096**
*
* **Enforcement Tracking No.**
* **HE-CN-20-00205**
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SETTLEMENT

The following Settlement is hereby agreed to between BASF Corporation (“Respondent”) 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 a facility located in Geismar, Ascension Parish, Louisiana (“the Facility”).

II

On August 6, 2020, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement Tracking No. HE-CN-20-00205 (Exhibit 1).

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 EIGHT THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$8,500.00), of which Two Thousand Two Hundred Thirty-Nine and 27/100 Dollars (\$2,239.27) 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 Consolidated Compliance Order & Notice 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 Ascension 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)

(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

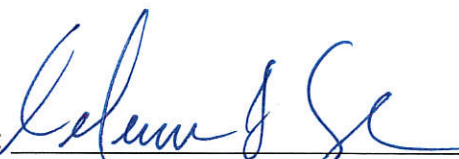
**LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**
Chuck Carr Brown, Ph.D., Secretary

BY: _____
Celena J. Cage, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at Baton Rouge, Louisiana.

NOTARY PUBLIC (ID # _____)

(stamped or printed)

Approved:  _____
Celena J. Cage, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, PH.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

AUG 06 2020

CERTIFIED MAIL (7019 2970 0000 6037 3664
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: CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. HE-CN-20-00205
AGENCY INTEREST NO. 2049**

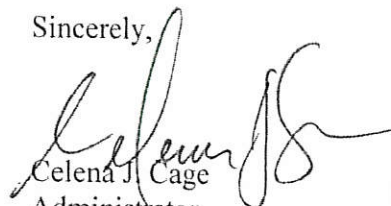
Dear Sir/Madam:

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 Dr. Jacqueline Prudente at (225) 219-3095 or jacqueline.prudente@la.gov.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/JAP/jap
Alt ID No. LAD040776809
Attachment



c: BASF Corporation
c/o Eric Hillman, Environmental Specialist
P.O. Box 457
Geismar, LA 70734

c: BASF Corporation
c/o Daniel Wolf
P.O. Box 457
Geismar, LA 70734

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

**BASF CORPORATION
ASCENSION PARISH
ALT ID NO. LAD040776809**

* **ENFORCEMENT TRACKING NO.**

*

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HE-CN-20-00205

*

*

AGENCY INTEREST NO.

*

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

*

2049

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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 BASF Corporation- Geismar Site (the facility) located at 8404 River Road in Geismar, Ascension Parish, Louisiana. The Respondent is a large quantity generator of a permitted hazardous waste treatment, storage, and/or disposal facility and a large quantity handler of universal waste batteries, lamps, and mercury-containing equipment. The facility currently operates under Hazardous Waste Permit LAD040776809-OP-RN-2 that became effective on May 17, 2018, and has been assigned EPA Identification Number LAD040776809.

II.

A Warning Letter (HE-L-20-00205) was issued on or about March 2, 2020 to the Respondent based on an inspection which occurred from December 11, 2019 through December 19, 2019. The Respondent submitted a response to HE-L-20-00205 dated April 3, 2020.

III.

On or about December 11, 2019 through December 19, 2019, an inspection of the facility was conducted to determine the degree of compliance with the Act and the Louisiana Hazardous Waste Regulations. A subsequent file review was conducted on June 29, 2020. While the investigation by the Department is not yet complete, the following violations were noted during the course of the inspection and subsequent file review:

- A. The Respondent failed to inspect all hazardous waste tanks, and failed to duly log any equipment failures in the operating record, in violation of Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition V.A.2.c.i, LAC 33:V.309.A, and LAC 33:V.1509.D. Specifically:
 1. On or about December 11, 2019, the Department reviewed the Daily Tank Inspection Record [TDI Plant Hazardous Waste Area Inspection for TDA Tar/Alcohol (D-138) and TDI Residue Toluene Waste (D-415) Process Services Area Form] for the daily inspection of the Tank D-38, which revealed that the record did not indicate that there was missing coating on the concrete secondary containment.
 2. On or about December 11, 2019, the Department reviewed the Daily Tank Inspection Record (Amines II & TBS Outside Reading Sheet) for the daily inspection of the Tank TK-1420, which revealed that the record did not indicate that there was missing coating on the concrete secondary containment.
 3. On or about December 12, 2019, the Department reviewed the Daily Tank Inspection Record (Daily Aniline RCRA Inspection Form) for the daily inspection of Tanks TK-501 and TK-502, which revealed that the record did not indicate that the coating on the concrete secondary containment was cracked.
 4. On or about December 11, 2019, the Department noted that the concrete secondary containment for permitted hazardous waste tank D-138 was not

inspected. During the inspection, there were solids covering a large area in the secondary containment, which would prevent the inspection for cracks or deterioration of the concrete secondary containment including the coating on the concrete.

The Respondent's response to HE-L-20-00205 dated April 3, 2020, stated that as a corrective action, the need to document any issues discovered during the daily inspection of secondary containment for hazardous waste containers was reviewed with the facility operations personnel. The photo provided with the response reveals that the dirt covering an area of the secondary containment for permitted hazardous waste tank D-138 has been cleaned. In an email correspondence dated May 28, 2020, a representative of the Respondent stated that the dirt was cleaned on night shift of December 19, 2019. The email correspondence also stated that the need to document any issues discovered during the daily inspection of secondary containment coating, and to maintain a clean floor in order to properly conduct inspections was reviewed with the facility operations personnel immediately after the inspection and multiple times during weekly meetings in January 2020.

- B. The Respondent failed to keep the external liner system free of cracks or gaps, in violation of Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition V.A.2.c.iii, LAC 33:V.309.A, and LAC 33:V.1907.E.1.c. Specifically:
1. On or about December 11, 2019, an inspection of permitted hazardous waste tank D-138 revealed that an area of approximately a few inches in diameter on the southwest area of the concrete secondary containment for the tank did not have coating.
 2. On or about December 11, 2019, an inspection of permitted hazardous waste tank TK-1420 revealed that the coating was missing around the concrete pedestal on which the tank stands.
 3. On or about December 12, 2019, an inspection of permitted hazardous waste tanks TK-501 and TK-502 revealed that the coating on the west side of the concrete secondary containment for the tanks had cracked coating.

The photographs submitted by the Respondent on or about April 3, 2020, in response to HE-L-20-00205 reveal that repairs to the secondary containment coating for

Tanks D-138, TK-1420, TK-501, and TK-502 have been made. In an email correspondence dated May 28, 2020, a representative of the Respondent stated that repairs were completed on March 19, 2020 for tank D-138, December 27, 2019 for tank TK-1420, and March 30, 2020 for tanks TK-501 and TK-502.

- C. The Respondent failed to keep inspection records for at least three (3) years from the date of the inspections, in violation of Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition III.D, LAC 33:V.309.A, and LAC 33:V.1509.D. Specifically:
 1. The facility did not have a record for certain conditions observed for inspections conducted by the Respondent on July 17, 2018, July 6, 2019, and July 7, 2019, for the Amines Boiler and permitted hazardous waste tanks D-721A, D-721B, D-136, and D-137. The Respondent's response to HE-L-20-00205 dated April 3, 2020 stated that the reason why the inspections were not completed is unknown and as a corrective action, the Respondent reviewed the requirement to conduct tank system inspections daily with the facility operations personnel. In an email correspondence dated May 28, 2020, a representative of the Respondent stated that the corrective action was immediately completed after the December 19, 2019 inspection and the facility operations personnel were trained multiple times during weekly safety meetings in February 2020.
 2. The facility did not have a record of any repairs or remedial actions [corrective actions taken as required in the General Inspection Plan (September 15, 2017)] for the inspections conducted by the Respondent on May 22, 2018, June 20, 2018, and August 26, 2019, for permitted hazardous waste tanks TK-1400, 1410, D-5263, and the Amines Boiler. The Respondent's response to HE-L-20-00205 dated April 3, 2020, stated that the liquid identified in the secondary containment on May 22, 2018, and August 26, 2019, was rainwater, and the rainwater was sent to the Wastewater Treatment Plant (WWTP) site for treatment and discharge. The response also stated that there was no leak identified during the June 20, 2018 inspection: the inspector inadvertently checked the wrong box on the form. The response to HE-L-20-00205 also stated that as a corrective action, the need to more carefully complete the inspection forms was reviewed with the facility operations personnel. In an email

correspondence dated May 28, 2020, a representative of the Respondent stated that the corrective action was immediately completed after the December 19, 2019 inspection and the facility operations personnel were trained multiple times during weekly meetings in February 2020.

- D. The Respondent failed to clean-up in a timely manner any spilled material or material trapped in sumps that is a hazardous waste or that will be disposed of as a hazardous waste, in violation of Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition 2.4, LAC 33:V.309.A, and LAC 33:V.1121.A. Specifically:
1. Hazardous waste (D001, F003, K114, K115) was observed dripping from the cap on a valve toward the bottom of a container (rolloff box), and from the cap of a rolloff box and spilled on the concrete in the TDI shipping area. According to representatives of the Respondent, the rolloff box was cleaned of residues after the inspection and shipped offsite for disposal. The photographs provided by the Respondent on or about December 19, 2019 revealed that cleanup had been completed.
 2. Nickel catalyst hazardous waste (F003, D001, K114, K115, U221) was observed on the outside of, and on the concrete around a rolloff box in the Old TDI Plant Area. The photographs provided by the Respondent on or about December 19, 2019 revealed that after the inspection, the facility had cleaned the hazardous waste residue off of the rolloff box, and the hazardous waste on the concrete.
 3. Hazardous waste residue (D001) was observed on top of a 55-gallon drum of hazardous waste (D001) located in the Maintenance Storage Area. According to a representative of the Respondent, after the December 17, 2019 inspection, the residue was removed from the 55-gallon drum and the drum was shipped off-site for disposal. The photographs provided by the Respondent on or about December 19, 2019 revealed that cleanup had been completed.
- E. The Respondent failed to clearly mark hazardous waste containers with the date upon which each period of accumulation begins, and with the word "Hazardous Waste," in

Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition VII.A.7.b, LAC 33:V.309.A, LAC 33:V.1109.E.1.c, LAC 33:V.1109.E.1.d, and LAC 33:V.2205.A.2. Specifically:

1. One (1) railcar accumulating hazardous waste from Tank D-138 [TDA Tar/Alcohol waste (D001, D007, F030, F003, K114, K115)] in the west part of the TDI Plant Shipping area was not marked with an accumulation start date or labeled with the words "Hazardous Waste."
2. Two (2) 55-gallon drums of hazardous waste (K103, K104) in the Maintenance Storage Area were not marked with an accumulation start date. During the inspection, the drums containing hazardous wastes were immediately marked with accumulation start date.

As a corrective action, during the above-referenced inspection, the Respondent immediately labeled the railcar accumulating hazardous waste from Tank D-138 and the two (2) 55-gallon drums of hazardous waste (K103, K104) with the word "Hazardous Waste" and marked with an accumulation start date of December 11, 2019.

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 Louisiana Hazardous Waste Regulations and Hazardous Waste Permit LAD040776809-OP-RN-2.

II.

To immediately institute procedures, upon receipt of this **COMPLIANCE ORDER**, which ensure that all inspections of tanks and associated instrumentation where any exterior signs of corrosion, cracks, or leaks are detected, are duly logged in the operating record, in accordance with LAC 33:V.309.A and Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition V.A.2.c.i .

III.

To remedy, within sixty (60) days of receipt of this **COMPLIANCE ORDER**, all deteriorations in the hazardous waste tank secondary containment structures, referred to in Findings of Fact

paragraph III.B, in accordance with LAC 33:V.1907.E.1.c, and Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition V.A.2.c.iii. The Respondent shall submit documentation to the Enforcement Division, within seventy (70) days of receipt of this of **COMPLIANCE ORDER**, demonstrating that all repairs have been completed.

IV.

To immediately institute procedures, upon receipt of this **COMPLIANCE ORDER**, which ensure that inspection records are kept for at least three (3) years from the date of inspections, in accordance with LAC 33:V.1509.D, LAC 33:V.309.A, and Hazardous Waste Permit LAD040776809-OP-RN-2, Permit Condition III.D.

V.

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: Dr. Jacqueline Prudente
Re: Enforcement Tracking No. HE-CN-20-00205
Agency Interest No. 2049

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. HE-CN-20-00205
Agency Interest No. 2049

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 Division of Administrative Law (DAL) Procedural Rules. 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 Dr. Jacqueline Prudente at (225) 219-3095 or jacqueline.prudente@la.gov 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 6th day of August, 2020.


 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: Dr. Jacqueline Prudente



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE
ENFORCEMENT DIVISION CONSOLIDATED COMPLIANCE ORDER &
POST OFFICE BOX 4312 NOTICE OF POTENTIAL PENALTY
BATON ROUGE, LOUISIANA 70821-4312 REQUEST TO CLOSE

Enforcement Tracking No.	HE-CN-20-00205	Contact Name	Dr. Jacqueline Prudente
Agency Interest (AI) No.	2049	Contact Phone No.	(225) 219-3095
Alternate ID No.	LAD040776809		
Respondent:	BASF Corporation	Facility Name:	BASF Corporation-Geismar Site
	c/o C T Corporation System	Physical Location:	8404 River Road
	Agent for Service of Process		
	3867 Plaza Tower Drive	City, State, Zip:	Geismar, LA 70734
	Baton Rouge, LA 70816	Parish:	Ascension

STATEMENT OF COMPLIANCE

STATEMENT OF COMPLIANCE	Date Completed	Copy Attached?
A written report was submitted in accordance with Paragraph V of the "Order" portion of the COMPLIANCE ORDER.		
Procedures were immediately instituted upon receipt of the COMPLIANCE ORDER to ensure all inspection results are duly logged and all inspection records are kept for at least three (3) years from the date of inspections in accordance with Paragraphs II and IV 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:I.Subpart1.Chapter7.
<input type="checkbox"/>	In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-CN-20-00205), 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"/>	<p>In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (HE-CN-20-00205), 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.</p> <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. <p>The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY (HE-CN-20-00205) and has attached a justification of its offer and a description of any BEPs if included in settlement offer.</p>

CERTIFICATION STATEMENT		
<i>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.</i>		
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: Dr. Jacqueline Prudente		

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:I.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.

	MAJOR	MODERATE	MINOR
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 33:1 Chapter 7</u>
Beneficial Environmental Projects	<u>LAC 33:1 Chapter 25</u>
Judicial Interest.....	<u>FAQs</u> provided by the Louisiana State Bar Association



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