UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

In the Matter of	)	
	)	
BASF Catalysts, LLC	)	**Docket No. EPCRA-4-2009-2001**
	)	
	)	
	)	
	)	
Respondent	)	

PREHEARING ORDER

As you have been previously notified, I have been designated to preside in the above captioned matter. This proceeding arises under the authority of Section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA), 42 U.S.C. § 11045. Complainant issues this Complaint and Notice of Opportunity to request a hearing against BASF Catalysts, LLC, for violations of Section 313 of EPCRA, 42 U.S.C. § 11023. The EPA Rules of Practice ("Rules"), applicable in this administrative enforcement proceeding, are found in 40 C.F.R. Part 22.

As provided in the Rules, §22.18(a), it is the Agency's policy to encourage settlement of proceedings without the necessity of a formal hearing. However, the continuation of settlement negotiations will not provide good cause for not meeting the following schedule set in this Prehearing Order.

The schedule can now be set for the filing of prehearing exchanges under 40 C.F.R. §22.19 in accord with the following procedure:

1. Each party shall submit a list of all expert and other witnesses it intends to call with a brief narrative summary of their expected testimony; and copies of all documents and exhibits it intends to introduce into evidence. The exhibits should include a resume for each proposed expert witness.

2. The Complainant shall submit a statement explaining in detail how the proposed penalty amount was determined, including a description of how the specific provisions of any EPA penalty or enforcement policies or guidelines were applied in calculating the penalty.

3. If the Respondent intends to take the position that it is unable to pay the proposed penalty, or that payment will have an adverse effect on Respondent's ability to continue in business,

Respondent shall furnish supporting documentation such as financial statements or tax returns.

4. The Respondent is directed to clarify whether its defense admits liability but challenges the appropriateness of the penalty sought by EPA.

5. The Complainant shall submit a statement on the applicability of the Paperwork Reduction Act ("PRA"), 44 U.S.C. § 3501 et seq., to this proceeding, including whether there is a current Office of Management and Budget control number involved and whether the provisions of Section 3512 of the PRA may apply to this case.

6. Each party shall submit its views on the place for the hearing pursuant to §§22.21(d) and 22.19(d) of the Rules. Each party should also indicate when they would be available for the hearing, and give an estimate of the time needed to present its direct case.

The Parties must simultaneously make their initial prehearing exchanges by **Thursday, April 2, 2009**. If Respondent does not intend to present a direct case, but does wish to cross-examine Complainant's witnesses, it must submit a statement to that effect instead of a prehearing exchange. After the initial exchanges, the parties may file supplements to their prehearing exchanges (including any reply or rebuttal material), without motion, until 30 days before the date scheduled for the hearing.

I will schedule the hearing after I receive the parties' initial exchanges.

Upon completion of the prehearing exchanges, the parties are directed to confer with one another in order to determine those issues which remain genuinely in dispute, so that the hearing may be focused on such matters. The parties shall then submit a statement to me identifying those issues.

The original and one copy of all filings, with attachments, shall be sent to the Regional Hearing Clerk, and copies sent to the opposing party and the Administrative Law Judge.

William B. Moran
Administrative Law Judge

Dated: February 2, 2009
Washington, DC

If sending by:
Fed Ex, UPS or any type of Courier service

Judge William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Franklin Court Building
1099 14th Street N.W. Suite 350
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Washington, DC 20005

In the Matter of BASF Catalysts, Respondent
Docket No. EPCRA-4-2009-2001

CERTIFICATE OF SERVICE

I certify that the foregoing **Prehearing Order**, dated February 2, 2009, was sent this day in the following manner to the addressees listed below:

Original by Regular Mail to:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, GA 30303

Copy by Regular Mail to:

Attorney for Complainant:

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Assistant Regional Counsel
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Attorney for Respondent:

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Florham, NJ 07932

Knolyn R. Jones
Legal Staff Assistant

Dated: February 2, 2009