



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEDERAL EXPRESS

OCT - 1 2008

BASF Catalysts, LLC
C/O CT Corporation System
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

Re: BASF Catalysts, LLC Violations of Section 313 of EPCRA, 42 U.S.C. § 11023
Docket No. EPCRA-04-2009-2001

Dear BASF Catalysts, LLC:

Enclosed please find the Complaint and Notice of Opportunity for Hearing (Complaint) issued by the Director, Air, Pesticides, and Toxics Management Division, for violations of Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 42 U.S.C. § 11023. Pursuant to Section 325 of EPCRA, 42 U.S.C. 11045, the Complaint includes an assessment of a civil penalty.

Your written answer to the Complaint should be sent within thirty (30) days of receipt of the Complaint to:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
Telephone: (404) 562-9511.

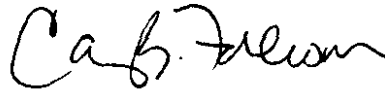
Also, please send a copy of the Answer to:

Mr. Adam Dilts
U.S. EPA, Region 4
Office of Environmental Accountability
61 Forsyth Street, S.W.
Atlanta, Georgia 30303.

Adjudicatory proceedings for the assessment of administrative civil penalties under Section 325 of EPCRA, 42 U.S.C. 11045, are governed by the Consolidated Rules of Practice, (Consolidated Rules) 40 C.F.R. Part 22. The original Complaint is being forwarded to the Regional Hearing Clerk as directed by the Consolidated Rules, 40 C.F.R. § 22.5(a). For your

reference, a copy of the Consolidated Rules is enclosed. If you have any questions, please contact Mr. Adam Dilts at (404) 562-9581.

Sincerely,

A handwritten signature in black ink, appearing to read "Caron B. Falconer". The signature is fluid and cursive, with the first name "Caron" being the most prominent.

Caron B. Falconer
Chief, EPCRA Enforcement Section

Enclosures

cc: Nancy Lake Martin
Senior Environmental & Safety Counsel, BASF Catalysts, LLC

that employs ten (10) or more full-time employees, that is in Standard Industrial Classification ("SIC") code 20 through 39, and that manufactures, processes or otherwise uses a toxic chemical listed under Section 313(c) of EPCRA, 42 U.S.C. § 11023(c), in an amount exceeding its threshold quantity during a calendar year, to prepare a toxic chemical release form (Form "R") concerning that toxic chemical and to submit it to the Administrator of EPA and an official of the State designated by the Governor by July 1 of the following year.

7. On April 10, 2007, EPA inspected the Savannah Facility to determine compliance with Section 313 of EPCRA, 42 U.S.C. § 11023.

8. At all times relevant to this Complaint, Respondent's Savannah Facility has employed ten (10) or more full-time employees.

9. At all times relevant to this Complaint, the Savannah Facility operated within SIC Codes 20 through 39, specifically SIC Code 3339.

10. At all times relevant to this Complaint, nitric acid (CAS No. 7697-37-2) has been listed as a toxic chemical under Section 313 of EPCRA, 42 U.S.C. § 11023, and 40 C.F.R. Part 372.65.

11. At all times relevant to this Complaint, the threshold quantity for the processing of nitric acid has been 25,000 pounds per calendar year pursuant to Section 313(f) of EPCRA, 42 U.S.C. § 11023(f), and 40 C.F.R. Part 372.25.

12. All allegations above are incorporated by this reference as if fully set forth in the following counts.

COUNT I

13. During calendar year 2003, Respondent processed more than 25,000 pounds of nitric acid at the Savannah Facility.

14. Respondent did not submit, for the Savannah Facility, a Form "R" for nitric acid to the Administrator of EPA and the official designated by the Governor of the State of Georgia by July 1, 2004.

15. Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023.

COUNT II

16. During calendar year 2004, Respondent processed more than 25,000 pounds of nitric acid at the Savannah Facility.

17. Respondent did not submit, for the Savannah Facility, a Form "R" for nitric acid to the Administrator of EPA and the official designated by the Governor of the State of Georgia by July 1, 2005.

18. Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023.

COUNT III

19. During calendar year 2005, Respondent processed more than 25,000 pounds of nitric acid at the facility.

20. Respondent did not submit, for the Savannah Facility, a Form "R" for nitric acid to the Administrator of EPA and the official designated by the Governor of the State of Georgia by July 1, 2006.

21. Respondent violated Section 313 of EPCRA, 42 U.S.C. § 11023.

PROPOSED PENALTY

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19, EPA may assess a civil penalty of not more than \$32,500 for each violation of Section 313 of EPCRA, 42 U.S.C. § 11023, that occurred on or after March 15, 2004. Each day a violation of Section 313 continues constitutes a separate violation.

Civil penalties under Section 325 of EPCRA, 42 U.S.C. § 11045(c), may be assessed by Administrative Order. On the basis of the violations of EPCRA described above, Complainant alleges that Respondent is subject to penalties for violations of EPCRA Section 313. Accordingly, Complainant proposes a penalty pursuant to the authority of Section 325 of EPCRA, 42 U.S.C. § 11045, as set forth below:

Counts 1-3	EPCRA Section 313, 42 U.S.C. §11023	\$ 65,800.00
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In calculating the proposed EPCRA penalties, Complainant considered the nature, circumstances, extent and gravity of the violations, and with respect to the Respondent, its ability to pay, the penalty's effect on its ability to continue to do business, any history of violations, the degree of culpability, and such other matters as justice may require.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

Within thirty (30) days of service of this Complaint, Respondent may request a hearing before an EPA Administrative Law Judge on the Complaint and at the hearing may contest any material fact and the appropriateness of any penalty amount. To request a hearing Respondent must file a written Answer within thirty (30) days of receipt of this Complaint. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in this Complaint of which Respondent has any knowledge. If Respondent has no knowledge of a particular factual allegation, the Answer shall so state. Such a statement is deemed to be a denial of the allegation. The Answer shall contain: (1) a statement of the facts which constitute the grounds of a defense; (2) a concise statement of the facts which Respondent intends to place at

issue in the hearing; and (3) whether a hearing is requested. The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing. Failure of Respondent to admit, deny, or explain any material factual allegation contained in the Complaint constitutes an admission of the allegation.

If Respondent fails to file a written Answer within thirty (30) days of receipt of this Complaint, such failure shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to Answer within thirty (30) days may result in the filing of a Motion for Default and issuance of a Default Order. The Default Order may impose the penalties proposed herein without further proceedings.

Any hearing requested will be conducted in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits ("Consolidated Rules"), 40 CFR Part 22. Respondent must send any request for a hearing to:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

A copy of the Answer and all other documents that Respondent files in this action must be sent to the following EPA attorney representing EPA in this matter:

Adam Dilts
Assistant Regional Counsel
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

If Respondent fails to request a hearing within the designated time period or fails to appear at a hearing, EPA may issue a Final Order assessing the proposed administrative penalty. In accordance with Section 325(f) of EPCRA, 42 U.S.C. § 11045(f), Respondent may obtain review of any Final Order by filing a notice of appeal in the United States District Court for the district in which the facility is located within thirty (30) days from the date of such Final Order and by simultaneously sending a copy of such notice by certified mail to the Administrator of EPA.

TERMS OF PAYMENT

If the Respondent does not contest the findings and assessments set out above, payment of the penalties may be forwarded to EPA. Payment of penalties for EPCRA violations must be made by certified or cashiers check payable to the "Treasurer, United States of America" and must be sent to:

Regional Hearing Clerk
 U.S. EPA, Region 4
 P.O. Box 100142
 Atlanta, Georgia 30384

The check should reference the name and docket number of this Complaint.

SETTLEMENT CONFERENCE

Whether or not Respondent requests a hearing, Respondent may request an informal conference to discuss the facts of this case and to attempt to negotiate a settlement. To request an informal conference, please write to or telephone:

Adam Dilts
 Assistant Regional Counsel
 Office of Environmental Accountability
 U.S. EPA, Region 4
 61 Forsyth Street, S.W.
 Atlanta, Georgia 30303
 (404) 562-9581

Please note that a request for the scheduling of, or the participation in, an informal settlement conference does not extend the thirty (30) day period during which a written Answer and Request for Hearing must be filed as set forth above. The informal settlement conference procedure, however, may be pursued simultaneously with the hearing procedure.

SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

The Consolidated Rules prohibit any unilateral discussion or ex parte communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Regional Administrator, Regional Judicial Officer or the Administrative Law Judge after issuance of a Complaint. From the date of this Complaint until the final Agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Administrative Law Judge, Regional Administrator nor the Regional Judicial Officer shall have any ex parte communication with Respondent or any EPA representatives involved in this matter on the merits of any issue involved in this proceeding.

8/7/08
 Date

Carol G. Zamboni for
 Beverly Banister
 Director
 Air, Pesticides and Toxics
 Management Division
 Region 4

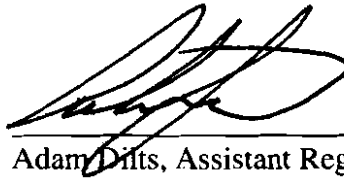
following address:

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

I also certify that, on the date indicated below, I sent by Federal Express overnight mail, return receipt requested, a copy of the Administrative Complaint and Notice of Opportunity to Request a Hearing and a copy of the Consolidated Rules of Practice at 40 C.F.R. Part 22 to the following addressee:

BASF Catalysts, LLC
C/O CT Corporation System
1201 Peachtree Street, N.E.
Atlanta, Georgia 30361

10/1/08
Date



Adam Dilts, Assistant Regional Counsel
United States Environmental
Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9581



TrackingUpdates @fedex.com

10/02/2008 09:54 AM

Please respond to
trackingmail@fedex.com

To Adam Dilts/R4/USEPA/US@EPA

cc

bcc

Subject FedEx Shipment 790099599734 Delivered

This tracking update has been requested by:

Company Name: EPASF
Name: Adam Dilts
E-mail: dilts.adam@epa.gov

Our records indicate that the following shipment has been delivered:

Ship (P/U) date: Oct 1, 2008
Delivery date: Oct 2, 2008 9:51 AM
Delivered to: Receptionist/Front Desk
Service type: FedEx Priority Overnight
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Deliver Weekday

Tracking number: 790099599734

Shipper Information
Adam Dilts
EPASF
Suite 9T25; 61 Forsyth St. S.W
Atlanta
GA
US
30303

Recipient Information
BASF Catalysts, LLC
C/O CT Corporation System
1201 Peachtree Street, N.E.
Atlanta
GA
US
30361

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