UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

IN THE MATTER OF:	)	RESPONDENT'S PREHEARING EXCHANGE
	)	
BASF Catalysts LLC	)	
	)	EPCRA-04-2009-2001
Respondent.	)	

BASF CATALYSTS LLC'S PREHEARING EXCHANGE

BASF Catalysts LLC ("Respondent") submits this Prehearing Exchange in accordance with the Prehearing Order dated February 2, 2009 and Section 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22.

1. A list of all witnesses Respondent intends to call with a brief narrative summary of their expected testimony.

   Respondent anticipates calling the following witness:

   Michelle Nooney
   Senior Environmental, Health and Safety Specialist
   BASF Catalysts LLC
   1800 E. President Street
   Savannah, GA 31404

   Ms. Nooney is expected to testify regarding her knowledge and understanding of the requirements of EPCRA 313 reporting. She will also testify as to the activities she undertook to prepare the EPCRA 313 report, and the timing thereof, for the Savannah facility for reporting year 2006. As the person who met with the inspector on April 10, 2007, Ms. Nooney will also testify as to the information discussed and document provided to Erika White (now Erika Bolden) during the inspection. Ms. Nooney's testimony will include the process whereby BASF disclosed pursuant to EPA's "Audit Policy" its omission of nitric acid in the facility's EPCRA reports for 2003, 2004 and 2005. Ms. Nooney is also expected to testify as to some of the statements made in the inspector's field notes and report.

   Respondent reserves the right to expand or otherwise modify the scope of Ms. Nooney's testimony as permitted. Respondent also reserves the right to call additional witnesses as may be necessary to respond to issues raised by, or documents and/or exhibits included

in, Complainant's prehearing exchange. Respondent further reserves the right to call additional witnesses upon adequate notice to Complainant and to the Court.

2. Copies of all documents and exhibits Respondent intends to introduce into evidence.

Respondent's Exhibit 1: BASF Catalysts Tier II Emergency and Hazardous Chemical Inventory dated February 23, 2007
Respondent's Exhibit 2: EPA receipt for samples and documents dated April 10, 2007
Respondent's Exhibit 3: BASF Catalysts Title V Permit Facility Description dated October 3, 2006 (page 1 of 42 only)
Respondent's Exhibit 4: BASF Catalysts EPCRA Disclosure Pursuant to EPA's Audit Policy dated June 5, 2007
Respondent's Exhibit 5: EPA's response to BASF Catalysts EPCRA Disclosure dated June 20, 1007
Respondent's Exhibit 6: BASF Catalysts EPCRA Disclosure Pursuant to EPA's Audit Policy dated July 13, 2007
Respondent's Exhibit 7: BASF Catalysts Toxic Chemical Release Inventory Form A, Nitric Acid, dated July 13, 2007
Respondent's Exhibit 8: EPA's response to BASF Catalysts EPCRA Disclosure dated October 29, 2007
Respondent's Exhibit 9: BASF Catalysts request for reconsideration of EPA's determination dated December 4, 2007
Respondent's Exhibit 10: EPA's Notice of Violation dated February 1, 2008
Respondent's Exhibit 11: BASF Catalysts response to the Notice of Violation dated May 8, 2008

3. Respondent does not 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.

4. Respondent admits liability but challenges the appropriateness of the penalty sought by EPA based on Respondent's having disclosed its reporting omission pursuant to EPA's Audit Policy.

5. N/A

6. Respondent requests that the prehearing conference be held by telephone. Respondent further requests that the hearing be held in Chatham County, which is where Respondent conducts the business which is the subject of the hearing. Alternatively, Respondent requests that the hearing be held in Atlanta.

Respondent anticipates that it will need a half day to present its case.

At present, Respondent's witness or counsel are unavailable on April 24, May 1-4, June 29-30, and July 1-10, 2009.

Dated: April 1, 2009

Respectfully submitted,

By: Nancy Lake Martin

Nancy Lake Martin
Senior Counsel
BASF Catalysts LLC
100 Campus Drive
Florham Park, NJ 07932
(973) 245-6055
(973) 245-6706 (facsimile)

CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I sent by Federal Express overnight mail, the original and one copy of Respondent's Prehearing Exchange, with attachments, in In the Matter of BASF Catalysts LLC, Docket No. EPCRA-4-2009-2001, to the Regional Hearing Clerk at the following addressee:

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, a copy of Respondent's Prehearing Exchange, with attachments, to the following addressees:

Judge William B. Moran
U.S. Environmental Protection Agency
Office of Administrative Law Judges
Franklin Court Building
1099 14th Street N.W., Suite 350
Washington, DC 20460

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

April 1, 2009
Date

Nancy Lake Martin
Nancy Lake Martin
Senior Counsel
BASF Catalysts LLC
100 Campus Drive
Florham Park, NJ 07932
(973) 245-6055

RESPONDENT'S EXHIBIT 1

Facility Name: BASF Catalysts LLC

****
****

FACILITY IDENTIFICATION:
BASF Catalysts LLC
Dept:
1800 East President Street
Savannah, GA 31404 . USA
County: Chatham
Number of employees: 100
Latitude: 32.0419
Longitude: 81.0333
Method: I3 - Interpolation (Satellite)
Description: CE - Center of Facility
MAILING ADDRESS: 1800 East President Street
Savannah, GA 31404 USA

IDENTIFICATION NUMBERS:
Dun & Bradstreet: 099290629
SIC: 3295 (MINE & EARTHS, GROUND OR TREAT)

CONTACT INFORMATION:

Control Room Operator,
Contact Type 1: Emergency Contact
Address: 1800 East President Street, Savannah, GA, 31404 USA
Phones: 24-hour: 912-644-8182

Nooney, Michelle
Title: EH&S Contact Type 1: Regulatory Point of Contact
Address: 1800 East President Street, Savannah, GA, 31404 USA
Phones: Work: 912-651-1256 Mobile - Cell: 912-704-3563
Email: michelle.nooney@basf.com

Christopher, Jimmy
Title: Site Manager Contact Type 1: Owner / Operator
Address: 1800 East President Street, Savannah, GA, 31404 USA
Phones: Work: 912-651-1224 Mobile - Cell: 912-704-3242
Email: jimmy.christopher@basf.com

CHEMICAL DESCRIPTIONS:
[ ] All chemicals in inventory are identical to last year's submission
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CHEM NAME: Aluminum Hydroxide Oxide
CAS: 24623-77-6
[ ] Identical to previous year
[ ] TRADE SECRET
[x] Pure [ ] Mix [x] Solid [ ] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)

Facility Name: BASF Catalysts LLC

INVENTORY:
Max Amt: 168000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 143000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 63000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: H1A - East of FCC Tank Farm Amount: 65000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: H1B - East of FCC Tank Farm Amount: 65000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: H2 - East of FCC Tank Farm Amount: 50000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Aluminum Oxide
CAS: 1344-28-1
[ ] Identical to previous year
[ ] TRADE SECRET
[x] Pure [ ] Mix [x] Solid [ ] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 708000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 342000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 178000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: Silo A - NE side of RR tracks Amount: 180000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: Silo B - NE side of RR tracks Amount: 180000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: Silo C - NE side of RR tracks Amount: 180000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: Silo D - NE side of RR tracks Amount: 180000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Aluminum Oxihydrate
CAS: 1318-23-6
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 1138000 pounds Max Daily Amt code: 06 (1,000,000 - 9,999,999 pounds)
Avg Amt: 831000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 1138000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST1A - FCC Tank Farm Amount: 1245000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

Facility Name: BASF Catalysts LLC

CHEM NAME: Aluminum Sulfate
CAS: 10043-01-3
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 10043-01-3, Component: Aluminum sulfate, 26.8% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 488000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 326000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 246000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-3255 Amount: 255000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: ST-34 Amount: 333000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Aluminum Trioxide
CAS: 21645-51-2
[ ] Identical to previous year
[ ] TRADE SECRET
[x] Pure [ ] Mix [x] Solid [ ] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 83600 pounds Max Daily Amt code: 04 (10,000 - 99,999 pounds)
Avg Amt: 82700 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 83600 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: H-1070 Amount: 85000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Ammonium Hydroxide
CAS: 1336-21-6
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [x] EHS
CHEMICAL COMPONENTS:
[x] EHS, CAS: 7664-41-7, Component: Ammonia, 19% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 122000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 84900 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 122000 pounds
No. of days on-site: 365

Facility Name: BASF Catalysts LLC

STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-6 Amount: 145000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Ammonium Sulfate
CAS: 7783-20-2
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 7783-20-2, Component: Ammonium sulfate, 38% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 78500 pounds Max Daily Amt code: 04 (10,000 - 99,999 pounds)
Avg Amt: 43000 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 78500 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-7 - FCC Plant Amount: 79000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Formic Acid
CAS: 64-18-6
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 64-18-6, Component: Formic acid, 16.5% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 120000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 75000 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 120000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-1060 - FCC Tank Farm Amount: 120000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Kaolin
CAS: 1332-58-7
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:

Facility Name: BASF Catalysts LLC

[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 614000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 459000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 614000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-3 - FCC Tank Farm Amount: 651000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Nitric Acid
CAS: 7697-37-2
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [x] EHS
CHEMICAL COMPONENTS:
[x] EHS, CAS: 7697-37-2, Component: Nitric acid, 56.5% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 75200 pounds Max Daily Amt code: 04 (10,000 - 99,999 pounds)
Avg Amt: 51500 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 75200 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-6035 - NE side of plant Amount: 110000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Phosphoric Acid
CAS: 7664-38-2
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 7664-38-2, Component: Phosphoric acid, 75% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 72200 pounds Max Daily Amt code: 04 (10,000 - 99,999 pounds)
Avg Amt: 48100 pounds Avg Daily Amt code: 04 (10,000 - 99,999 pounds)
Max quantity in largest container: 72200 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-6208 - FCC Tank Farm Amount: 78900 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

Facility Name: BASF Catalysts LLC

CHEM NAME: Propane
CAS: 74-98-6
[ ] Identical to previous year
[ ] TRADE SECRET
[x] Pure [ ] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[x] Fire [x] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 664000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 534000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 130000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 2 Temp: 4 Location: Pro-A - NW side of RR tracks Amount: 30000 gallons
Container Type: A Pressure: 2 Temp: 4 Location: Pro-B - NW side of RR tracks Amount: 30000 gallons
Container Type: A Pressure: 2 Temp: 4 Location: Pro-C - NW side of RR tracks Amount: 30000 gallons
Container Type: A Pressure: 2 Temp: 4 Location: Pro-D - NW side of RR tracks Amount: 30000 gallons
Container Type: A Pressure: 2 Temp: 4 Location: Pro-E - NW side of RR tracks Amount: 30000 gallons
Container Type: A Pressure: 2 Temp: 4 Location: Pro-F - NW side of RR tracks Amount: 30000 gallons
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Rare Earth Nitrate
CAS: 68412-17-9
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [x] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 68412-17-9, Component: Rare Earth Nitrates, 35% Wt
[x] EHS, CAS: 7697-37-2, Component: Nitric acid, 3% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 163000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 115000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 163000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-5 - FCC Tank Farm Amount: 234000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Sodium Aluminate Solution
CAS: 11138-49-1
[ ] Identical to previous year
[ ] TRADE SECRET
[x] Pure [ ] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 376000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)

Avg Amt: 255000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 280000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-13 - FCC Tank Farm Amount: 112000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: ST-5030 - Axens Tank Farm Amount: 286000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Sodium Hydroxide
CAS: 7732-18-5
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 7732-18-5, Component: Sodium hydroxide, 50% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 546000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 346000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 328000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-3115 - Axens Tank Farm Amount: 381000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: ST-4 - FCC Tank Farm Amount: 361000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

CHEM NAME: Sodium Silicate
CAS: 1344-09-8
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [ ] EHS
CHEMICAL COMPONENTS:
[ ] EHS, CAS: 1344-09-8, Component: Sodium silicate, 35% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [ ] Delayed (chronic)
INVENTORY:
Max Amt: 1062000 pounds Max Daily Amt code: 06 (1,000,000 - 9,999,999 pounds)
Avg Amt: 701000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 780000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-10 - FCC Tank Farm Amount: 354000 pounds
Container Type: A Pressure: 1 Temp: 4 Location: ST-1B - FCC Tank Farm Amount: 935000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

Facility Name: BASF Catalysts LLC

CHEM NAME: Sulfuric Acid
CAS: 7664-93-9
[ ] Identical to previous year
[ ] TRADE SECRET
[ ] Pure [x] Mix [ ] Solid [x] Liquid [ ] Gas [x] EHS
CHEMICAL COMPONENTS:
[x] EHS, CAS: 7664-93-9, Component: Sulfuric acid, 98% Wt
PHYSICAL & HEALTH HAZARDS:
[ ] Fire [ ] Sudden Release of Pressure [ ] Reactivity [x] Immediate (acute) [x] Delayed (chronic)
INVENTORY:
Max Amt: 407000 pounds Max Daily Amt code: 05 (100,000 - 999,999 pounds)
Avg Amt: 230000 pounds Avg Daily Amt code: 05 (100,000 - 999,999 pounds)
Max quantity in largest container: 407000 pounds
No. of days on-site: 365
STORAGE CODES & STORAGE LOCATIONS:
Container Type: A Pressure: 1 Temp: 4 Location: ST-3260 - Finishing 1 Tank Farm Amount: 490000 pounds
CHEMICALS IN INVENTORY STATE FIELDS:
Georgia requires some information located under other tabs.

FACILITY STATE FIELDS:
Georgia requires some information located under other tabs.

STATE / LOCAL FEES: None.

[ ] I have attached a site plan
[ ] I have attached a list of site coordinate abbreviations
[ ] I have attached a description of dikes and other safeguard measures

Certification (Read and sign after completing all sections)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in pages one through 8, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete.

Jimmy Christopher - Site Manager
Name and official title of owner/operator OR owner/operator's authorized representative

Signature

2/23/2007
Date signed

RESPONDENT'S EXHIBIT 2

US ENVIRONMENTAL PROTECTION AGENCY - REGION 4

Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

EPA

RECEIPT FOR SAMPLES AND DOCUMENTS

1. INVESTIGATION IDENTIFICATION				2. FIRM NAME
DATE	TIME	DAILY SEQ.NO.	INSPECTOR NO.	BASF Catalyst
4/10	8:00	1	23263	

3. INSPECTOR ADDRESS:	4. FIRM ADDRESS
US EPA Region 4 EPCRA Enforcement Section 61 Forsyth St, SW Atlanta, Georgia 30303 Phone: (404)562-9195 Fax: (404)562-9163	1800 Presidents St Savannah, GA 30404

The documents and samples of chemical substances and/or mixtures described below were collected in connection with the administration and enforcement of the Emergency Planning and Community Right-to-Know Act of 1986 and the Comprehensive Environmental Response, Compensation and Liability Act as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA).

RECEIPT OF THE DOCUMENT(S) AND/OR SAMPLES(S) DESCRIBED IS HEREBY ACKNOWLEDGED:

NO.	DESCRIPTION
1	Title V process description

INSPECTOR SIGNATURE		RECIPIENT SIGNATURE	
Erika Bolden		S. Michelle Mooney	
NAME Erika L. Bolden		NAME S. Michelle Mooney	
TITLE Environmental Engineer	DATE SIGNED 4/10/07	TITLE EH&S Team member	DATE SIGNED 4/10/07

PART 1.0 FACILITY DESCRIPTION

1.1 Site Determination

This is the only facility at this Part 70 site; there are no known site determination issues.

1.2 Previous and/or Other Names

Katalistics

1.3 Overall Facility Process Description

The operations at this facility can be broken down into 3 product lines: Microspheres, Fluid Cracking Catalyst (FCC), and Alumina.

"Microspheres"
Ground/processed kaolin and other proprietary raw materials (mostly inorganic chemicals) are brought in by truck and rail. Raw materials are stored in silos H7&H8, which are controlled by individual baghouses. Materials are slurried, mixed (T5), spray dried into small particles (D1B), and calcined (D6). Material may be remixed (T7) and dried (D2) prior to calcination. Finished product is pneumatically conveyed to storage silos (H10 through H13), then shipped out via railcars, trucks or supersacks for delivery to downstream catalyst manufacturing facilities. D1B is controlled by a baghouse and D6 is controlled by a venturi scrubber. In the "heat recovery mode"(scenario #2), exhaust from D6 bypasses the scrubber and flows through D1B and out the D1B baghouse. D2 is controlled by a baghouse. Silos are controlled by individual baghouses.

"Fluid Cracking Catalyst" (FCC)
Slurried raw materials and proprietary chemicals are delivered by truck/rail. The materials are mixed in mix tanks and then crystallized in reactors. Then the catalyst goes through a base exchange process on belt filters, rotary dryers and calciners. Material is then spray dried (D8) and calcined (D7), product from D7 goes into a product collector while D7 exhaust runs back through D8 to aid in heating. D7 and D8 share a baghouse. That exhaust gas is routed into a venturi scrubber, then through an ammonia absorber. Product, now known as "Zeolite" is reslurried and mixed with kaolin, and other chemicals (T1 & T2), then spray dried (D1A). D1A is controlled by a baghouse. More wet mixing occurs, then the mix is dried (D3) and calcined (D10). D3 and D10 share a baghouse. More wet mixing occurs, then the mix is dried in D5, which is controlled by a baghouse. Finished dry FCC is pneumatically conveyed to storage silos. It is then loaded onto trucks or railcars for delivery to oil refineries. Some bagging may occur. There are three - 20 MMBtu/hr natural gas boilers associated with this product line.

"Alumina"
Raw materials including sodium aluminate and aluminum sulfate are delivered by truck and rail. These materials are wet mixed and allowed to crystallize. The slurry is filtered to remove impurities. The alumina is next washed on belt filters. The processed alumina is then spray dried in D9 into small particles and pneumatically conveyed to storage silos. D9 is exhausted through baghouse CD09. Alumina is next loaded onto trucks or railcars (L6) or supersacks (L4) for delivery to downstream catalyst manufacturing facilities. There is one- 20 MMBtu/hr natural gas boiler associated with this product line. In Application No. 16101 the permittee has proposed replace nitric acid with acetic acid in the alumina process.

BASF

The Chemical Company

June 5, 2007

Ms. Caron Falconer
Chief, EPCRA Enforcement Section
U.S. EPA Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104

RE: EPCRA Disclosure Pursuant to EPA's Audit Policy

Dear Ms. Falconer:

BASF Catalysts LLC[1] is hereby disclosing an EPCRA 313 reporting oversight. On May 16, 2007, while preparing the 2006 report, it was discovered that nitric acid had not previously been reported for this site under EPCRA 313 for reporting years 2003, 2004 and 2005. This discovery triggered a full review of chemical usage by site personnel. Although nitric acid was not reported, there are no releases to the environment that will need to be reported since the site utilizes neutralization in the wastewater treatment process.

The reporting name and TRI ID number for this facility for the period at issue are as follows: Engelhard Corporation – Savannah Operations 31404KTLST1800E.

BASF Catalysts has a copy of the Audit Policy and will be diligently working to complete required submittals within 60 days of our discovery of this oversight. We will then submit a full disclosure under the Audit Policy describing how we satisfy each of the nine Policy conditions.

Please contact Michelle Nooney, EHS Team Member, at (912) 651-1256 if you have any questions regarding this submittal.

Sincerely,

Jimmy Christopher
Site Manager

[1] Effective June 9, 2006, the publicly held shares of Engelhard Corporation (EC) were acquired by an affiliate of BASF Corporation, which affiliate then merged into EC, with EC being the surviving entity. On August 1, 2006, EC was converted to a limited liability company known as BASF Catalysts LLC. Engelhard Corporation, now BASF Catalysts LLC, was and is the owner and operator of the Pasadena facility.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 2 0 2007

RESPONDENT'S EXHIBIT 5

Mr. Jimmy Christopher
Site Manager
BASF Catalysts LLC
1800 East President Street
Savannah, Georgia 31404

Dear Mr. Christopher:

The United States Environmental Protection Agency (EPA) has received your letter dated June 5, 2007, in which you disclosed, on behalf of BASF Catalysts LLC, Engelhard Corporation, Savannah, Georgia, possible non-compliance with reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA), Section 313.

Your disclosure has been assigned Docket Number 04-2007-9144. Please refer to this number in future correspondences and submissions regarding this disclosure. The legal contact assigned to this disclosure is Saundi Wilson (404/562-9504 or wilson.saundi@epa.gov) and the program/technical contact is Erika Bolden (404/562-9195 or bolden.erika@epa.gov). You may receive an information gathering letter from either of them regarding your facility's self-disclosure submittal in the next few weeks.

EPA appreciates your willingness to timely self-police, disclose, and correct violations at your facility. If you have any questions concerning this matter, please contact Gloria Love of my staff at 404/562-9672 or love.gloria@epa.gov.

Sincerely,

Kelly Sisario, Acting Chief
Enforcement & Compliance Planning
and Analysis Branch

BASF
The Chemical Company

July 13, 2007

Kelly Sisario
Acting Chief, Enforcement & Compliance Planning
And Analysis Branch
U.S. EPA Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, GA 30303-8960

RE: EPCRA Disclosure Pursuant to EPA's Audit Policy
Engelhard Corporation – Savannah Operations 31404KTLST1800E
Docket Number 04-2007-9144

Dear Ms. Sisario:

On June 5, 2007, BASF Catalysts LLC[1] disclosed an EPCRA 313 reporting oversight. On May 16, 2007, while preparing the 2006 report, it was discovered that nitric acid had not previously been reported for this site under EPCRA 313 for reporting years 2003, 2004 and 2005. As required by EPA's Audit Policy, BASF has submitted the FORM A reports within 60 days of the discovery of this oversight. We are also submitting a full disclosure under the Audit Policy describing how we satisfy each of the nine Policy conditions.

1. Systematic Discovery
   The matter was discovered while preparing the 2006 TRI report. Site personnel discovered that a check of the threshold for nitric acid had not been done for reporting years 2003-2005 as it had been in previous years.

2. Voluntary Disclosure
   The oversight was not detected by any pre-existing legally mandated monitoring, sampling, or auditing procedures.

3. Prompt Disclosure
   The discovery was made on May 16, 2007 and disclosed in writing to EPA on June 5, 2007, which is within the 21-day disclosure period.

[1] Effective June 9, 2006, the publicly held shares of Engelhard Corporation (EC) were acquired by an affiliate of BASF Corporation, which affiliate then merged into EC, with EC being the surviving entity. On August 1, 2006, EC was converted to a limited liability company known as BASF Catalysts LLC. Engelhard Corporation, now BASF Catalysts LLC, was and is the owner and operator of the Savannah facility.

4. Discovery and disclosure independent of Government or Third Party Plaintiff
   The oversight was discovered and disclosed independent of any government enforcement action, notification of inspection, inspection, or third party complaint.

5. Correction and Remediation
   BASF Catalysts LLC submitted Form A reports on July 13, 2007 for reporting years 2003, 2004, and 2005.

6. Prevent Recurrence
   The Savannah Operations has a well-documented procedure for preparing annual TRI reports. An initial step of checking thresholds of all TRI chemicals has been added to the procedure.

7. No Repeat Violations
   The same or closely related violation has not occurred at this site within the past 3 years.

8. Other Violations Excluded
   The violation did not result in serious actual harm, and did not present an imminent and substantial endangerment to human health or the environment. In addition, the violation did not violate the specific terms of any judicial or administrative order, consent agreement, or plea bargain.

9. Cooperation
   BASF Catalysts LLC has complied with the elements of EPA's Self-Policing Policy by identifying the violations and promptly disclosing them to the Agency.

Please contact Michelle Nooney, EHS Team Member, at (912) 651-1256 if you have any questions regarding this submittal.

Sincerely,

Jimmy Christopher
Site Manager

Cc: Saundi Wilson
Erika Bolden

Form Approved OMB Number: 2070-0143
Approval Expires: 1/31/2008

(IMPORTANT: Type or print; read instructions before completing form)

United States Environmental Protection Agency

State Only

TOXIC CHEMICAL RELEASE INVENTORY
FORM A

WHERE TO SEND COMPLETED FORMS: 1. TRI Data Processing Center, P.O.Box 1513, Lanham, MD 20703-1513 2. APPROPRIATE STATE OFFICE (See Instructions in Appendix F)

Enter "X" here if this is a revision: [ ]

For EPA use only

Important: See instructions to determine when "Not Applicable (NA)" boxes should be checked.

PART I. FACILITY IDENTIFICATION INFORMATION

SECTION 1. REPORTING YEAR 2005

SECTION 2. TRADE SECRET INFORMATION

2.1 Are you claiming the toxic chemical identified on page 2 trade secret?
[ ] Yes (Answer question 2.2; Attach substantiation forms) [X] NO (Do not answer 2.2; Go to Section 3)

2.2 Is this copy [ ] Sanitized [ ] Unsanitized (Answer only if "YES" in 2.1)

SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)

I hereby certify that to the best of my knowledge and belief, for each toxic chemical listed in the statement, the annual reportable amount as defined in 40 CFR 372.27 (a), did not exceed 500 pounds for this reporting year and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.

Name and official title of owner/operator or senior management official:	Signature:	Date Signed:
Jimmy Christopher Site Manager	Jimmy Christopher	07/13/2007

SECTION 4. FACILITY IDENTIFICATION

4.1 TRI Facility ID Number: 31404KTLST1800E

Facility or Establishment Name: Engelhard Corporation - Savannah Operations

Facility or Establishment Name or Mailing Address (if different from street address):

Street: 1800 East President Street

Mailing Address: NA

City/County/State/Zip Code: Savannah Chatham GA 31404

City/State/Zip Code:

Country (Non-US):

4.2 This report contains information for: (Important : check c or d if applicable) c. [ ] A Federal facility d. [ ] GOCO

4.3 Technical Contact Name: S. Michelle Nooney
Telephone Number (include area code): (912) 651-1256
Email Address: michelle.nooney@basf.com

4.4 Intentionally left blank

4.5 SIC Code (s) (4 digits): Primary a. 3295 b. 2819 c. d. e. f.

4.7 Dun & Bradstreet Number(s) (9 digits): a. 877442285 b.

SECTION 5. PARENT COMPANY INFORMATION

5.1 Name of Parent Company: NA [ ] Engelhard Corporation

5.2 Parent Company's Dun & Bradstreet Number: NA [ ] 099290629

RESPONDENT'S EXHIBIT 7

IMPORTANT: Type or print; read instructions before completing form

Page 2 of 2

State Only

EPA FORM A

PART II. CHEMICAL IDENTIFICATION

TRIFID: 31404KTLST1800E

Do not use this form for reporting PBT chemicals including Dioxin and Dioxin-like Compound

SECTION 1. TOXIC CHEMICAL IDENTITY	**Report 1 of 1**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical categor 7697-37-2
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.) Nitric acid
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes". Generic Name must be structurally descriptive). NA
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.) NA

SECTION 1. TOXIC CHEMICAL IDENTITY	**Report of**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical categor
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes". Generic Name must be structurally descriptive).
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.)

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1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical categor
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1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes". Generic Name must be structurally descriptive).
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.)

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1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical categor
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part I, Section 2.1 is checked "yes". Generic Name must be structurally descriptive).
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, spaces, and punctuation.)

*** See the TRI Reporting Forms and Instructions Manual for the list of PBT Chemicals (including Dioxin and Dioxin-like Compounds)**

EPA Form 9350-2 (Rev. 1/2006) - Previous editions are obsolete.

(Make additional copies of this page, if needed)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 29 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jimmy Christopher
Site Manager
BASF Catalysts LLC
1800 East President Street
Savannah, Georgia 31404

Re: Self-Disclosure 04-2007-9144

Dear Mr. Christopher:

The United States Environmental Protection Agency (EPA) has reviewed your letters dated June 5, 2007, and July 13, 2007, concerning the self-disclosure and its application under EPA's Policy "Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations," (Audit Policy) 65 Fed. Reg.19618 (April 11, 2000). Preliminary review of the self-disclosure confirms that in the present circumstances, relief will not be available under EPA's Audit Policy.

BASF Catalysts LLC fails to qualify for relief under the Audit Policy because the company did not satisfy condition D(4) of the Policy. The disclosure was not made before EPA conducted an inspection at your facility. EPA inspected the facility on April 10, 2007. The company's self-disclosure occurred after the inspection.

If you have any questions, please contact Erika Bolden at (404) 562-9195.

Sincerely,

Carol L. Kemker for

Beverly H. Banister
Director
Air, Pesticides, and Toxics
Management Division

BASF

The Chemical Company

December 4, 2007

Ms. Beverly H. Bannister
Air, Pesticides, and Toxics Management Division
U.S. EPA Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

RE: Self-Disclosure 04-2007-9144

Dear Ms. Bannister:

In response to your letter dated October 29, 2007, BASF Catalysts LLC respectfully requests that the Agency reconsider its determination that the company does not qualify for relief under the Audit Policy.

The Federal Register notice explaining the Audit Policy states, "Under Section D(4), the entity must discover the violation independently. That is, the violation must be discovered and identified before EPA or another government agency likely would have identified the problem either through its own investigative work or from information received through a third party."

Although EPA conducted an audit on April 10, 2007, the audit was limited in scope and would have not have resulted in discovery of the oversight that the company later reported. The April 10 audit, which lasted less than one hour, involved only a cursory review of past 312 and 313 reports. The objective of the audit was to confirm that the company had submitted reports for the past few years, and did not include a data quality review. No problems or concerns were noted by the inspector as a result of the audit. Importantly, it was not the audit that prompted BASF's discovery of the filing oversight. Rather, the oversight was discovered when site personnel were preparing the 2006 TRI Report. Independent efforts by site personnel led to the discovery that the threshold for nitric acid had not been reevaluated for years 2003-2005 as it had been done in previous years.

I appreciate your consideration regarding this matter. Please contact Michelle Nooney, EHS Team Member, at (912) 651-1256 if you need additional information.

Sincerely,

Jimmy Christopher
Site Manager

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 0 1 2008

FEDERAL EXPRESS

Mr. Jimmy Christopher
BASF Catalysts, LLC
1800 East President Street
Savannah, Georgia 34404

SUBJ: Notice of Violation
BASF Catalysts, LLC

Dear Mr. Christopher:

On April 10 2006, your facility located at 1800 East President Street was inspected by United States Environmental Protection Agency (EPA) inspectors to determine compliance with the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Based on information gathered, it has been determined that your company is in violation of Section 313 of EPCRA, 42 U.S.C. §11023, and the regulations promulgated at 40 CFR Part 372. This letter explains the nature of these violations as we understand them given the information currently available to us.

Although settlement discussions may take place at subsequent stages of the enforcement process, we are, by this letter, offering the opportunity to conduct settlement discussions prior to the filing of a complaint. If agreement on a settlement can be reached, the settlement would be implemented through a Consent Agreement and Final Order. Outlined below is a summary of the violations and application of EPA's Enforcement Response Policy (ERP) for Section 313 of EPCRA. A copy of this ERP is enclosed.

I. Summary of the Violations

EPCRA Section 313 requires the owner or operator of a facility to use readily available data or reasonable estimates of the amounts of toxic chemicals required to be reported under EPCRA Section 313 to complete a toxic chemical release inventory form (Form R or Form A) and submit it to the Administrator of EPA and to the official designated by the governor of the state in which the facility is located by July 1 for the preceding calendar year for each toxic chemical manufactured, processed, or otherwise used in quantities exceeding the established threshold during that preceding calendar year provided the following elements are satisfied: (a) The facility has 10 or more full-time employees; (b) The facility is in Standard Industrial Classification (SIC) major group codes 10 (except 1011, 1081, 1094), 12 (except 1241), or 20 through 39; industry codes 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to

facilities regulated under the Resource Conservation and Recovery Act, Subtitle C, 42 U.S.C. § 6921 et seq.), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); and (c) The facility manufactured, processed, or otherwise used a toxic chemical listed under EPCRA Section 313(c) and in 40 CFR Section 372.65, in excess of an applicable threshold quantity established under EPCRA Section 313(f) and set forth in 40 CFR Sections 372.25, 372.27, or 372.28, during the calendar year.

EPA has determined that BASF Catalysts processed greater than 25,000 lbs of nitric acid during reporting years 2003, 2004, and 2005. However, BASF Catalysts failed to report in a timely manner to either the EPA or to the State of Georgia for reporting years 2003 (reports due July 1, 2004), 2004 (reports due July 1, 2005), and 2005 (reports due July 1, 2006) for nitric acid. The Form A report was submitted on July13, 2007.

Pursuant to Section 325(c) of EPCRA, 42 U.S.C. § 11045(c), and 40 CFR Part 19, EPA may assess a penalty of not more than $32,500 for each violation of Section 304(a) that occurred on or after March 15, 2004. Each day a violation of Section 313 continues constitutes a separate violation.

II. Application of the Penalty Policy for EPCRA Section 313 Violations

The ERP is used by EPA to ensure that enforcement actions for violations of EPCRA Section 313 are arrived at in a "fair, uniform and consistent manner." (ERP, Page 1). As an internal Agency matter, we follow the ERP when settling EPCRA enforcement actions. This is EPA's primary means for ensuring that similar violations receive similar treatment. Although there may be circumstances that warrant deviation from the ERP, we must be able to explain and document any such deviations.

For civil administrative actions, the ERP directs us to calculate a penalty. This is accomplished through a two-step process: (1) the determination of a "gravity-based penalty," which considers the "circumstances" and "extent" of the violations, and (2) allowing for adjustments based upon the following factors: voluntary disclosure, history of prior violations, delisted chemicals, attitude, other factors as justice may require, and ability to pay.

A. Base Penalty Calculation for EPCRA Section 313 Violations

For EPCRA Section 313 violations occurring after March 15, 2004, the base penalty is calculated according to the matrix found on Page 11-B of the ERP. All the extent level calculations are based on the information that total corporate entity sales are $10 million or more and there are 50 or more employees. The Extent Level is B since the facility processed less than ten times the 25,000 pound threshold and the total corporate entity sales are $10 million or more and there are 50 or more employees (ERP, Page 9). The Circumstance Level is 1;

failure to report in a timely manner, Category I (ERP, Page 12). According to the matrix, the appropriate penalty for Level 1B is $21,922. As explained in the ERP, EPA considers the failure to report to the EPA and to the state as two separate violations.

This results in a maximum total base penalty of $131,532. ($21,922 x 2 (EPA and State) x 3 years)

For purposes of settlement and since BASF Catalysts, LLC does not have any previous EPCRA violations, we are willing to compress the two reporting location violations (i.e., EPA and state), into one violation. This would result in a proposed base penalty, for settlement purposes only, of $65,766.

B. Adjustments to the Base Penalty for EPCRA Section 313 Violations

Consistent with the factors set forth in EPCRA Section 325(b)(1)(C), the ERP directs us to consider various factors relevant to the violator's situation, including any history of violations, the degree of culpability, other factors as justice may require, and the violator's ability to pay a penalty. The ERP addresses these factors through the series of "adjustment factors" described below.

Information available to us regarding BASF Catalysts, LLC suggests that payment of a penalty on the order of that discussed in this letter would not threaten the viability of the company. However, as with any enforcement case, EPA's initial judgment regarding ability to pay is subject to change based on new information. The ERP, on Pages 19-20, describes the types of information that EPA should consider before agreeing to a penalty reduction based on a company's ability to pay.

We are unaware of any prior instances where BASF Catalysts, LLC has been cited for violation of EPCRA. Therefore, there would be no adjustment to the base penalty based upon this consideration.

The remaining factors in the ERP address the opportunity to reduce a penalty for various reasons. The ERP allows for reductions of the base penalty based upon the company's "attitude." This adjustment has two components: (1) cooperation and (2) compliance. The penalty may be reduced by up to 15% based upon the cooperation shown throughout the compliance evaluation/enforcement process. Factors include a company's degree of cooperation during the inspection, allowing access to records, responsiveness and expeditious provision of supporting documentation requested by EPA during or after the inspection, and cooperation and preparedness during the settlement process. One of the reasons for our decision to send this letter prior to filing a complaint is to provide BASF Catalysts, LLC with an opportunity to maximize this particular avenue for flexibility in the ERP.

Additionally, the penalty may be reduced by up to 15% based on the facility's good faith efforts to comply with EPCRA, and the speed and completeness with which it comes into compliance.

Finally, the ERP allows for an additional reduction of up to 25% for "other matters as justice may require." We regard this as providing an opportunity to take into account compelling and unique circumstances that may not otherwise be accounted for in the ERP where such circumstances can be documented and the reduction justified.

III.

In presenting this analysis of the ERP, we hope to provide a foundation for settlement discussions should BASF Catalysts, LLC accept the invitation to enter into such a dialogue. Additionally, for settlement purposes only, we would consider reducing the proposed penalty of $65,766 using any of the applicable adjustment factors previously stated (ERP, Pages 18-20).

If BASF Catalysts wishes to engage in settlement dialogue, we request that you contact either Ms. Erika Bolden at (404) 562-9195 or Mr. Robert Bookman at (404) 562-9169 by February 20, 2008. You may also respond in writing with a specific settlement offer that is responsive to the ERP and to EPA's settlement requirements as outlined in this letter. Failure to respond by February 20, 2008, will be taken as an indication that settlement negotiations should not be expected at this time.

Sincerely,

Caron B. Falconer, Chief
EPCRA Enforcement Section

Enclosures: ERP for EPCRA Section 313

BASF
The Chemical Company

Via Electronic Mail

May 8, 2008

Mr. Adam Dilts
Assistant Regional Counsel
U.S. EPA, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

RE: BASF Catalysts LLC, Savannah, GA
Notice of Violation

Dear Mr. Dilts:

BASF remains committed to its position that the occurrence of the EPA inspection on April 10, 2007 should not preclude the application of EPA's Policy on Incentives for Self-Policing (Audit Policy) to BASF's self-disclosure dated June 5, 2007 and July 13, 2007. BASF understands that the basis for EPA's conclusion that we do not qualify for relief under the Audit Policy is that Ms. White "would have" eventually come to the same conclusion had BASF not self-disclosed, although admittedly EPA did not have any information *prior* to our self-disclosure to indicate that there was a violation.[1] Based on Ms. White's claim during our call on February 19 that BASF's act of self-disclosure meant that EPA *had* to suspend its alleged ongoing post inspection activities, it seems obvious that EPA *still* did not have any information that was indicative of a violation. For the record, Ms. White said nothing at the time of her brief (less than an hour) inspection to suggest that she had any concerns or that BASF should expect further contact from EPA in this regard. She took a single document with her at the conclusion of the inspection. Moreover, BASF heard nothing further from EPA in the intervening two month period between the April 10 inspection and our June 5 self-disclosure.

BASF believes that EPA's position is completely contrary to the Audit Policy's stated intent of encouraging regulated entities to voluntarily discover, promptly disclose and expeditiously correct violations of Federal environmental requirements. BASF did all three of these things in this case. As we have explained on more than one occasion, the reporting error was discovered during the normal course of preparing the 2006 TRI report. This was the first TRI report to be prepared by the Savannah plant since its acquisition by BASF Corporation in June 2006. The Savannah site is supported at the site and corporate levels by BASF Corporation Environmental, Health & Safety professionals. The BASF internal deadline for preparing the TRI report was June 1. Thus, the EHS Team Member at the Savannah site who was responsible for preparing the report commenced her

[1] The information conveyed during the discussions on February 19 with Robert Bookman and Erika White and on April 29 with Ms. White and yourself, serves as the basis of our understanding.

BASF Corporation
100 Campus Drive
Florham Park N.J. 07932
Tel: (973) 245-6055
Fax: (973) 245-6712
nancy.martin@basf.com

preparations in mid-May (more than a month after the inspection), at which time the error was discovered. Significantly, this individual had not prepared the report for the prior three years.

BASF can't help but feel that it is the victim of the coincidental proximity in time between the inspection and the regulatory deadline for filing the TRI report. EPA incorrectly claims in its Notice of Violation dated February 1, 2008 that **"[b]ased on information gathered . . . EPA has determined"** that BASF is in violation of EPCRA (emphasis added). Clearly the only information that EPA has is what was contained in BASF's self-disclosure. If EPA's burden of proof is simply to claim that it *would have* discovered a violation, and not that it actually *did* discover it, then it seems there is virtually no circumstance under which a regulated entity subject to periodic inspections can successfully invoke the incentives for self-policing. EPA's position in this case, if maintained, will certainly make BASF think twice before "doing the right thing" in the future, a result which we are certain is not EPA's objective.

Sincerely,

Nancy Lake Martin

Nancy Lake Martin
Senior Environmental & Safety Counsel

Cc: Beverly H. Banister, USEPA (via electronic mail)
Caron B. Falconer, USEPA (via electronic mail)
Kelly Sisario, USEPA (via electronic mail)
Steve Herman, Beveridge & Diamond (via electronic mail)