

emission limit of 1.14 lb/mmBtu of actual heat input for Boiler No. 8 at its Addyston, Ohio manufacturing plant.

2. Complainant and Respondent have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order (CACO).

3. Respondent admits the jurisdictional allegations set forth in the Complaint and answers the factual allegations as set forth in the Complaint as provided in their Answer.

4. Respondent hereby withdraws its demand for and waives its right to a hearing on the allegations of the Complaint.

5. This Consent Agreement and Consent Order shall apply to and be binding upon Respondent, its officers, directors, servants, employees, agents, successors and assigns, including, but not limited to, subsequent purchasers.

6. Respondent and Complainant consent to the terms of settlement set forth below.

II. TERMS OF SETTLEMENT

7. Based upon information supplied by Respondent subsequent to the issuance of the Complaint, Complainant and Respondent have agreed to adjust the proposed penalty downward by 100 per cent to zero dollars (\$0).

8. Respondent shall change their method of sulfur dioxide (SO₂) emission tracking under OAC 3745-18-04(D)(8) for Boiler No. 8 from weekly, as-fired coal sampling and analysis (CSA) to the use of a SO₂ continuous emission monitoring system (CEMS) composed of a SO₂ analyzer and an oxygen analyzer. Respondent shall notify Ohio EPA of its intention to use the emission tracking method in OAC 3745-18-04(D)(8)(a) and shall follow any Ohio EPA procedures for formally converting from CSA to CEMS emission tracking under OAC 3745-18-04(D)(8).

9. Respondent shall establish, and get Ohio EPA's approval of, an equation, an F-factor or some other method for correctly computing Boiler No. 8's SO₂ emission rate in pounds per million Btu (lb/MMBtu) from the CEMS analyzers' outputs in a manner that reflects the variation of oxygen concentration (from the ambient level of 20.9 percent) that has been reported to exist in the air supply to Boiler No. 8.

10. Respondent shall recertify the CEMS (utilizing the approved correction methodology addressed above) in accordance with procedures found in Performance Specification 2, Appendix B, 40 CFR Part 60. Personnel from the U.S. EPA, Ohio EPA, and Hamilton County Department of Environmental Services (DOES) shall be notified 30 days prior to initiation of the applicable tests and shall be permitted to examine equipment and witness the certification tests. In accordance with OAC 3745-15-04, all

copies of the test results shall be submitted to the U.S. EPA, Ohio EPA, and DOES within 30 days after the test is completed. Certification of the CEM shall be granted upon determination by the Ohio EPA that the system meets all requirements of ORC section 3704.03(I) and 40 CFR Part 60, Appendix B, Performance Specification Test 2.

11. Respondent shall compute and record daily SO₂ emission values in lb/MMBtu from all one hour CEMS data recorded in each day. Respondent shall also compute and record 30 day rolling average SO₂ emission values in lb/MMBtu from the daily CEMS emission values.

12. Respondent shall submit reports of the daily and 30 day rolling average SO₂ emission values on a quarterly basis to the U.S. EPA, Ohio EPA and DOES within 30 days following the end of each calendar quarter. Direct reporting to the U.S. EPA shall continue for a period of 2 years unless extended by a formal request.

13. Respondent consents to the issuance of this Consent Agreement.

14. This Consent Agreement and Consent Order constitutes a settlement by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violation alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed

to operate in any way to resolve any criminal liability of the Respondent. Compliance with this Consent Agreement and Consent Order shall not be a defense to any actions subsequently commenced pursuant to Federal laws and regulations administered by U.S. EPA, and it is the responsibility of Respondent to comply with such laws and regulations.

15. Nothing in this Consent Agreement and Consent Order shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Consent Agreement and Consent Order or of the statutes and regulations upon which this Consent Agreement and Consent Order is based, or for Respondent's violation of any applicable provision of law.

16. Nothing in this Consent Agreement and Consent Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.

17. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into the terms of this Consent Agreement and Consent Order and to bind that party to such terms.

18. This Consent Agreement and Consent Order constitutes the entire agreement between Complainant and Respondent.

19. The parties to this Consent Agreement and Consent Order consent to the entry of this Consent Agreement and Consent Order without further notice.

20. Each party shall bear its own costs, attorney's fees and disbursements in connection with the action resolved by this Consent Agreement and Consent Order.

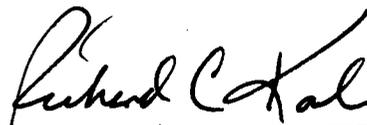
21. This Consent Agreement and Consent Order shall be binding upon the parties and effective upon the filing of the executed Consent Agreement and Consent Order with the Regional Hearing Clerk.

22. This is a "final order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

23. This Consent Agreement and Consent Order shall terminate the later of two years after the filing of the executed Consent Agreement and Consent Order with the Regional Hearing Clerk or such later date upon which all of the obligations of the Consent Agreement and Consent Order have been fulfilled.

U.S. Environmental Protection Agency**Complainant**Date: 3-2-99

By: _____



Richard C. Karl, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Bayer Corporation, RespondentDate: 2/25/99

By: _____



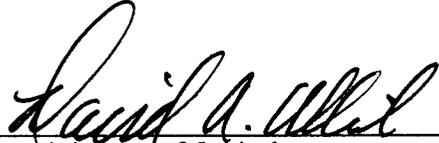
Name: W. C. Ward
Title: Plant Manager
Bayer Corporation
Addyston, Ohio 45001

CONSENT AGREEMENT AND CONSENT ORDER
Bayer Corporation
Docket No. 5-CAA-98-013

III. ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Order. Respondent is hereby ordered to comply with the terms of the above Consent Agreement, effective immediately.

Dated: 3/3/89



David A. Ullrich
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Shwanda Mayo, do hereby certify that the original of the foregoing Consent Agreement and Consent Order was hand delivered to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that correct copies, were mailed to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

William C. Ward, Plant Manager
Bayer Corporation
356 Three Rivers Parkway
Addyston, Ohio 45001-2400

P300 759 716
Certified Mail Number

Robert Brubaker, Esq.
Porter, Wright, Morris & Arthur
Attorneys & Counselors
41 South High Street
Columbus, Ohio 43215-6194

P300 759 717
Certified Mail Number

on the 4th day of March, 1999.

Shwanda Mayo
Shwanda Mayo, Secretary
AECAS (MN/OH)

US
PROTECTIVE
REGION 5
RECEIVED
69 MAR 4 11:44
RECEIVED