UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 Ross Avenue
Dallas, Texas 75202-2733

1 9 MAY 2016

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7014 0150 0000 2453 3610

Christopher P. Witte
Senior Vice President: Freeport Site Manager
BASF Freeport Site
BASF Corporation
602 Copper Rd.
Freeport, TX 77541-3001

RE: Clean Air Act Section 114 Information Request
BASF Corporation

Dear Mr. Witte:

Enclosed is an Information Request (Request) issued to BASF Corporation under the authority of Section 114 of the Clean Air Act (CAA). The purpose of this Request is to obtain information necessary to determine whether BASF Corporation's Freeport Site facility is in compliance with the provisions of the CAA.

Please provide the information requested within thirty (30) days of your receipt of this letter to Kevin Kim, at the above address. If you have any questions, need to request an extension, or wish to schedule a meeting to discuss this Request, please contact Candace Headen, Attorney, at (214) 665-8133.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Michael De La Cruz
Manager, Air Enforcement Section
Texas Commission on Environmental Quality (TCEQ)

ENCLOSURE A

INFORMATION REQUEST

The U.S. Environmental Protection Agency (EPA) Region 6 is issuing this request for information to BASF Corporation pursuant to Section 114(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7414(a), for the purpose of determining compliance with the CAA. Section 114(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Enforcement Division, EPA Region 6. Therefore, BASF Corporation is required to provide a response to this Request regarding the BASF Corporation Freeport Site located at 602 Copper Road, Freeport, Texas 77541 (the Facility).

The information requested must be submitted whether or not you regard part or all of it a trade secret or confidential business information. You may, if you desire, assert a business confidentiality claim on all or part of the information submitted. Any information subsequently determined to constitute a trade secret will be protected under 18 U.S.C. § 1905. Unless you make a claim at the time that you submit the information, it may be made available to the public by EPA without further notice to you. You should read 40 C.F.R. Part 2 carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of a claim. Emission data is exempt from claims of confidentiality under Section 114 of the Act, and the emissions data that you provide may be made available to the public. Information subject to a business confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B. Failure to assert a business confidentiality claim makes all submitted information available to the public without further notice.

We request that a duly authorized officer or agent of the Facility certify your response by signing the following certification:

> I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, and 18 U.S.C. §§ 1001 and 1341.

We may use any information submitted in response to this request in an administrative, civil, or criminal action.

All information responsive to this request should be sent to the following:

Kevin Kim
Air Toxics Enforcement Section [6EN-AT]
Compliance Assurance and Enforcement Division
U.S. EPA - Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Please be advised that some companies may qualify as a "small business" under the Small Business Regulatory Enforcement and Fairness Act (SBREFA). To help small business owners assess their small business status, the U.S. Small Business Administration (SBA) has established a Table of Small Business Size Standards, which can be found at: http://www.sba.gov/sites/default/files/Size_Standards_Table.pdf. If BASF Corporation qualifies as a small business, please review the SBREFA Information Sheet designed to provide information on compliance assistance to entities that may qualify as small businesses as well as to inform them of their right to comment to the SBREFA Ombudsman concerning EPA enforcement activities. The SBREFA Information Sheet can be found at: http://nepis.epa.gov/Exe/ZyPDF.cgi/P100BYAV.PDF?Dockey=P100BYAV.PDF. Please be aware that SBREFA does not eliminate BASF Corporation's responsibility to respond in a timely fashion to any complaint or information request that EPA may issue or other enforcement action that EPA may take, nor does SBREFA create any new rights or defenses under the law other than the right to comment to the SBREFA Ombudsman. If you are unable to access the links provided or need a hard copy, please contact Kevin Kim at (214) 665-8554.

This request is not subject to the Paperwork Reduction Act, 44 U.S. C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

Please be advised that under Section 113(a) of the Act, failure to provide the information required by this letter in a timely manner may result in an order requiring compliance, an order assessing an administrative penalty, or a civil action for appropriate relief. In addition, Section 113(c) of the Act provides criminal penalties for knowingly making any false statements or omission in any response required under the Act. EPA may also seek criminal penalties from any person who knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of EPA or in relation to or contemplation of any such matter or case. *See* 18 U.S.C. § 1519 (2004). The information provided by you may be used by the United States in administrative, civil, or criminal proceedings.

I. GENERAL INSTRUCTIONS

1. If information or documents not known or not available to you as of the date of submission of a response to this Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.

2. For each document produced in response to this Request, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.

3. Please provide a separate response to each question and subpart of a question set forth in this Request and precede each answer with the number of the question to which it corresponds.

4. For each question, identify each person responding to any question contained in this Request on your behalf, as well as each person consulted in the preparation of a response.

5. If available, provide copies of documents in searchable electronic format (*e.g.*, pdf) rather than hard copies. If hard copies of documents are provided, please submit all information for each question in a logically sequenced, bound format.

6. Data should be provided in searchable and editable electronic format (*e.g.*, spreadsheet).

7. When a response is provided in the form of a number, specify the units of measure.

8. Confidential business information (CBI) and non-confidential information should be submitted on separate media devices and identified as such. Please mark each page that is confidential business information as such. To make a CBI claim on hard copy documents, mark each page that is claimed, by cover sheet, stamp, or other suitable form of notice with language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and submitted separately to facilitate identification and handling by EPA. The assertion and substantiation requirements for CBI claims are discussed in a subsequent section of this document.

9. Indicate the assigned facility-wide federal air program (*e.g.*, AFS) and state (*e.g.*, Agency Interest, Regulated Entity) identification numbers for the subject facility.

10. For each media device (*e.g.*, compact disc, flash drive) containing electronic documents, provide a table of contents so that each document can be accurately identified in relation to your response to a specific question. In addition, each media device should be labeled (*e.g.*, company name, Disc 1 of 4 for information request response, date of response).

11. For each question, identify each document that was consulted, examined, or referred to in the preparation of the response or that contains information responsive to the question, and provide a true and correct copy of each such document if not already provided in response to another specific question. On each document produced in response to this Request, indicate the number of the question to which it corresponds.

12. If the Facility has no responsive information or documents for a particular question, submit a statement certifying this, along with a detailed explanation. If a document is responsive to more than one question, this must be so indicated, and only one copy of the document need be provided.

II. DEFINITIONS

The following definitions shall apply to the following words as they appear in Enclosure A:

1. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, draft or final, whether or not wholly or partially in handwriting, including documentation solely in electronic form, including by way of illustration and not by way of imitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations, including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, email, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document, and (e) every document referred to in any other document.

2. The term BASF Corporation ("BASF") includes any officer, director, agent, or employee of BASF, including any merged, consolidated, or acquired predecessor or parent, subsidiary, division, or affiliate thereof.

3. The terms "person" or "persons" shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.

4. The terms "you" or "yours", as used in each of the questions set forth in the attached Section 114 letter, refers to, and shall mean, the company or corporation with which each addressee of the attached Section 114 letter is affiliated, including its subsidiaries, division, affiliates, predecessors, successors, assigns, and its former and present officers, directors, agents, employees, representatives, attorneys, consultants, accountants and all other persons acting on its behalf.

5. All terms used in the Information Request will have their ordinary meaning unless such terms are defined in the CAA, 42 U.S.C. § 7401 *et seq.*, the implementing regulations, or 40 C.F.R. Part 68.

6. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions.

7. The term "flare" means a combustion device lacking an enclosed combustion chamber that uses an uncontrolled volume of ambient air to burn gases. A flare may be partially enclosed (such as an enclosed flare) or equipped with a radiant heat shield (with or without a refractory lining) but is not equipped with a system to limit the volume of combustion air.

8. The term "vent gas" means all gas found just prior to the flare tip. Vent gas includes all waste gas, purge gas, sweep gas, and supplemental gases such as natural gas and hydrogen, but does not include pilot gas, assist steam, or assist air.

9. The term "waste gas" means the mixture of all gases from facility operations that is directed to a flare for the purpose of disposing of the gas. Waste gas does not include gas introduced to a flare exclusively to make it operate safely and as intended; therefore, waste gas does not include pilot gas, total assist steam, assist air, or the minimum amount of sweep gas and purge gas that is necessary to perform the functions of sweep gas and purge gas. Waste gas also does not include gas introduced to a flare to comply with regulatory requirements; therefore, it does not include supplemental gas.

10. The term "purge gas" means gas introduced between a flare header's water seal and the flare tip to prevent oxygen infiltration (backflow) into the flare tip. For a flare with no water seal, the function of flare purge gas is performed by flare sweep gas and, therefore, by definition, such a flare has no flare purge gas.

11. The term "sweep gas" means, for a flare with a flare gas recovery system, the minimum amount of gas necessary to maintain a constant flow of gas through the flare header in order to prevent oxygen buildup in the flare header; flare sweep gas in these flares is introduced prior to and recovered by the flare gas recovery system. For a flare without a flare gas recovery system, flare sweep gas means the minimum amount of gas necessary to maintain a constant flow of gas through the flare header and out the flare tip in order to prevent oxygen buildup in the flare header and to prevent oxygen infiltration (backflow) into the flare tip.

12. The term "supplemental gas" means all gas introduced to the flare in order to improve the combustible characteristics of combustion zone gas.

13. The term "assist steam" means all steam that is intentionally introduced prior to or at a flare tip through nozzles or other hardware conveyance for the purposes including, but not limited to, protecting the design of the flare tip, promoting turbulence for mixing, or inducing air into the flame. Assist steam includes, but is not limited to, center steam, lower steam, and upper steam.

14. The term "assist air" means all air that intentionally is introduced prior to or at a flare tip through nozzles or other hardware conveyance for purposes including, but not limited to, protecting the design of the flare tip, promoting turbulence for mixing, or inducing air into the flame. Assist air does not include the surrounding ambient air.

15. The term "pressure relief device" means a safety device used to prevent operating pressures from exceeding the maximum allowable working pressure of the process equipment.

III. QUESTIONS

Within 30 days, BASF shall submit the following information about its Freeport Site facility located in Freeport, Texas. Document copies should be provided in electronic format (*e.g.*, pdf) rather than hard copies. Data should be provided in searchable and editable electronic format (*e.g.*, spreadsheet).

1. Provide the following information for each flare at the Facility:

    a. Unique identification numbers and names used in permit;

    b. Date of installation;

c. Manufacturer and model number;

d. Purpose (*e.g.*, emergency only, routine, intermittent process waste gas);

e. General design type (*e.g.*, ground or elevated, multi-tip or single tip, assisted or non-assisted; if assisted, indicate whether flare is steam, air, or pressure assisted);

f. Minimum assist steam (in lbs/hr) or assist air (in scf/hr) rate at all locations on each flare, and means of control of steam or air (*e.g.*, valve, bypass orifice);

g. Describe how the amount of waste gas, purge gas, sweep gas, supplemental gas, assist steam, and assist air is measured or monitored; and

h. Provide a diagram that shows the locations of each:

   i. Measurement or monitoring point for pressure, flow, net heating value, molecular weight, and constituent concentration;

   ii. Knockout drum and water seal; and

   iii. Injection point for purge gas, sweep gas, and supplemental gas.

2. For all periods when waste gas is sent to the flare, provide the following information for each flare in searchable and editable electronic format (*e.g.*, spreadsheet):

   a. The hourly average net heating value, in British thermal units per standard cubic foot (Btu/scf), of the vent gas for the period beginning 4 months prior to the date of receipt of this request.

   b. The hourly average concentration of each constituent of the vent gas for the period beginning 4 months prior to the date of receipt of this request.

   c. The hourly average mass flow rate, in lbs/hr, of the vent gas for the period beginning 4 months prior to the date of receipt of this request.

   d. The hourly average rate at which assist steam and/or assist air was added to the flare, in lbs/hr for steam, or scf/hr for air, at all locations on each flare (i.e., the sum of seal, upper, lower, winterizing, etc.) for the period beginning 4 months prior to the date of receipt of this request.

   If the hourly averages for any or all of the subsections above are measured, but data is not available, provide an explanation for each time period missing hourly data (*e.g.*, flare not is service, instrumentation malfunction, etc.).

If the requested data is not measured or otherwise monitored, use the best means available to calculate/estimate the hourly averages. Provide a narrative explanation and example calculations describing how you arrived at your response. Such methods of calculation/estimation include, but are not limited to, the use of calculations from an online, intermittent, or continuous gas chromatograph (whether at the flare or upstream of the flare), estimating flow from pressure measurements or from valve position data, periodic samples/analysis of gas flowing to the flare, and/or process knowledge.

If the requested data was not measured or cannot be calculated or estimated (*e.g.*, lack of equipment, equipment malfunction, and/or maintenance at a flare), provide an explanation of why no data is available and why the data cannot be calculated or estimated.

3. For each flare, provide the hourly average Steam-to-Vent Gas Ratio (lb Steam/lb Vent Gas) for the period beginning 4 months prior to the date of receipt of this request. If the rate at which steam added is not measured, use the best means available to estimate it. Provide a narrative explanation, including considerations for seasonal variations and minimum flow, with example calculations describing how you arrived at your response. All steam (including minimum or bypass steam) should be included in ratio calculation.

4. For each flare, describe how the pilot flame is monitored and how the monitoring data is recorded. Provide the monitoring data for the flare pilot flame for the period beginning 4 months prior to the date of receipt of this request.

5. For each flare, provide copies of all documents in your possession, custody, or control that prescribe or recommend the amount of steam or air to be added to each flare. Provide a copy of the entire document if, within the document, it states the maximum steam or air rate, minimum steam or air rate, steam or air addition rate associated with a vent scenario, general steam-to-vent gas or air-to-organic gas/vent gas ratio, or any other reference to steam addition.

6. For each flare, provide copies of all documents in your possession, custody, or control pertaining to flare design specifications, and flare operation and maintenance, including but not limited to the following: flare manufacturer design information and diagrams, flare engineering studies, flare manufacturer operational and monitoring procedures or recommendations, Facility operating procedures, Facility monitoring procedures, and flare performance testing.

7. For each flare, provide copies of flare operation and maintenance logs, including operator logbooks, for the period beginning 4 months prior to the date of receipt of this request.

8. State specifically which, if any, federal and/or state regulations apply to each flare, including any and all documents that include determinations, engineering assessments, and/or associated explanations made regarding CAA applicability to each flare.

9. For each flare, provide copies of permits issued under federal or state regulations where the flare is listed or flare operation is authorized.

10. For each flare, state whether the flare is configured to receive gases/vapors from one or more pressure relief device(s), which is a safety device used to prevent pressures from exceeding the maximum allowable working pressure of the process equipment.

CONFIDENTIAL BUSINESS INFORMATION (CBI) CLAIM ASSERTION & SUBSTANTIATION REQUIREMENTS

Assertion - You may assert a business confidentiality claim covering all or part of the information requested in response to this Request, as provided in 40 C.F.R. § 2.203(b). You may assert a business confidentiality claim covering such information by placing on (or attaching to) the information you desire to assert a confidentiality claim, at the time it is submitted to EPA, a cover sheet, stamped, or typed legend (or other suitable form of notice) employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and submitted separately to facilitate identification and handling by EPA. If confidential treatment is desired up until a certain date or until the occurrence of a certain event, the notice should state this. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in Section 114(c) of the Clean Air Act (CAA) and 40 C.F.R. Part 2.

EPA will construe the failure to furnish a CBI claim with your response to this Request as a waiver of that claim, and the information may be made available to the public without further notice to you. You should read 40 C.F.R. Part 2 carefully before asserting a confidentiality claim, since certain categories of information are not properly the subject of a claim. Emission data is exempt from claims of confidentiality under Section 114 of the CAA. Any emissions data you provide may be made available to the public. Information subject to a confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. Part 2, Subpart B.

Substantiation - All confidentiality claims are subject to EPA verification in accordance with 40 C.F.R. Part 2, Subpart B. The criteria for determining whether material claimed as confidential is entitled to such treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301, which provide, in part, that you must satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and you intend to continue to do so; the information is not and has not been reasonably obtainable by legitimate means without your consent; and the disclosure of the information is likely to cause substantial harm to your business's competitive edge.

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter (separate from this Request) asking you to substantiate your CBI claim. If you receive such a letter, you must provide EPA with a response within the time frame set forth in the letter. Failure to submit a response within that time would be regarded as a waiver of your claim, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider CBI. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Any information not specifically identified as subject to a CBI claim may be disclosed without further notice to you. If you receive such a letter, for each item or class of information that you identify as being subject, you must answer the questions below, giving as much detail as possible, in accordance with 40 C.F.R. § 2.204(e):

1. What specific portions of the information do you allege to be entitled to confidential treatment? For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of an event will eliminate the need for confidentiality, please specify the event.

2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by agreement not to disclose it? If so, why should the information be considered CBI?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, <u>explain with specificity</u> why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?

7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.

8. Any other issue you deem relevant.

Please note emission data is not entitled to confidential treatment under 40 C.F.R. §§ 2.301(a)(2)(i)(A),(B) and (C). "Emission data" means, with reference to any source of emission of any substance into the air: (A) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by source), or any combination of the foregoing;
(B) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of source

operation); and (C) A general description of location and nature of source to extent necessary to identify and distinguish from other sources (including, as necessary for such purposes, a description of the device, installation, or operation constituting the source).

If you receive a substantiation request letter from EPA, you bear the burden of substantiating your CBI claim. Conclusory allegations will be given little or no weight in the determination. If you fail to make a CBI claim with the response to this Request, the information may be released without further notice to you. Failure to give a timely response to a separate substantiation request letter is regarded as a waiver of any CBI claim, and EPA may release the information.