40 years and moving forward

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

September 30, 2013

CERTIFIED MAIL

CORRECTED LETTER

Ms. Sandra Kowalski
Site Director
BASF Corporation
120 Pine Street
Elyria, OH 44036-2012

RE: Correction to September 16, 2013 Notice of Violation (NOV) for Installing an Air Contaminant Source Prior to Applying for and Obtaining a Permit-to-Install and Prior to Applying for a Case-By-Case MACT Determination - High Priority Violation - DAPC FACILITY ID # 0247040195

Dear Ms. Kowalski:

The purpose of this letter is to notify you that BASF Corporation is operating the Cathode Materials Manufacturing (P129) emissions unit in violation of Ohio Administrative Code (OAC) rule 3745-31-02(A) (Permit-to-Install – PTI or Permit-to-Install and Operate - PTIO) and Ohio Revised Code (ORC) 3704.05(G). Additional information requested during the technical review of the applications for a PTI found that P129 was installed prior to applying for and obtaining a Case-By-Case Determination of Maximum Achievable Control Technology (MACT) in violation of OAC rule 3745-31-28 and Title 40, Code of Federal Regulations (CFR) 63.40, 63.42(c), 63.43, 63.53 and 63.55. It has also been determined that operation of P129 without applying for and obtaining a modified Title V permit is a violation of OAC rule 3745-77.

By 11/22/2011, BASF Corp. began installation of an agitating hopper (LIB Plant Rev 24-1-7-3-F4-4, H23020) production equipment associated with emissions unit P129, prior to applying for a PTI, in violation of OAC Rule 3745-31-02(A). According to the production equipment installation schedule, received on 8/15/2013, installation of the single kiln design for P129 continued with the installation of other production equipment and air pollution control equipment and was completed by 6/21/2012.

Application no. A0045081, received on 11/09/2012, was submitted for the installation of a proposed (P129) Cathode materials manufacturing emissions unit. Two subsequent applications (no. A0046796 received on 2/08/2013, and no. A0047014 received on 4/03/2013) contain a proposed design revision to install a second kiln, corrections, and additional information for PTI P0111903. According to the permit applications, operation of P129 began on 6/11/2012. However, the installation schedule, received on 8/15/2013, noted that "commissioning with product" of various production equipment began on 7/23/2012. The commissioning period for various production and air pollution control equipment lasted from three days to two months.

During the 8/06/2013, site visit the process engineer Robert Coffman, stated that the packaging and sealing drum area on the first floor still were in shakedown and that additional equipment or procedure changes were still needed. It is Ohio EPA's understanding that a few product formulations have been sent to prospective customers to see if the products met customer's specifications. About eighty-five (85) storage drums for products were seen near the packaging area during the 8/06/2013 site visit.

The submitted permit applications identified 40 CFR Part 63, Subpart VVVVVV (6V), the National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources (40 CFR 63.11494 – 63.11503) as a rule applicable to P129. A request for BASF Corp. to submit a facility-wide Potential to Emit evaluation of Hazardous Air Pollutants (HAPs), listed in section 112(b) of the Clean Air Act, was made on 5/23/2013. The potential to emit evaluation, received on 7/23/2013, found that potential emissions of previously installed emissions units are 48.6 tons Chromium/year (as the highest single HAP) and 51.7 tons of combined HAPs per year, which are above the major HAP source thresholds of 10 tons/year of any individual HAP and 25 tons/year of combined HAPs. The BASF Corp. Elyria facility is a major HAP source and is not subject to 40 CFR Part 63, Subpart (6V) or other rules in Part 63. P129 has the potential to emit HAPs (nickel, manganese and cobalt compounds) at major source levels without federally enforceable air pollution control equipment. If there are no other applicable rules or exemptions in 40 CFR Part 63, installation of a major HAP source, such as P129, after 6/29/1998, without a Case-By-Case MACT Determination by the permitting authority, is a violation of 40 CFR 63.42(c). Additional information regarding an application for a Case-by-Case MACT determination is requested below.

1) Please conduct a MACT Determination study to minimize HAP emissions from P129 in accordance with the principles of a MACT determination found in OAC rule 3745-31-28(E) and 40 CFR 63.43(d) in order to propose a Case-by-Case MACT standard. The proposed standard may be an emissions limitation, or if it is not feasible to prescribe or enforce an emission limitation, the proposed standard may be the employment of a specific design, a work practice, an operational standard, or a combination. Additional information may be available from the following sources:

a) Proposed or presumptive MACT standards;
b) Background information documents from any MACT standards;
c) Any information or guidance from the U.S. EPA Administrator establishing a MACT floor finding and/or MACT determination;
d) Data from the Clean Air Technology Center, go to http://www.epa.gov/ttn/catc/ and select "RACT/BACT/LAER Clearinghouse";
e) Other states' 112(g) determinations;
f) Additional information expeditiously provided by the U.S. EPA Administrator; or
g) The Michigan Department of Air Quality "MACT Determinations" page, http://www.deq.state.mi.us/aps/downloads/MACT/112g.shtml .

2) Please submit an application for a Case-By-Case MACT Determination in accordance with 40 CFR 63.43(e) to minimize HAP emissions from P129. The application must be submitted to Ohio EPA. Electronic documents are preferred and can be attached for you to the most recent electronic application for PTI P0111903 to install P129.

a) A proposed submittal date for the application is requested by **Thursday, 10/03/2013**.

b) The **Case-By-Case MACT Determination** application shall be completed in accordance with **40 CFR 63.43(e)** and OAC rule 3745-31-28(D) by the proposed submittal date.

c) A hard copy of the **Case-By-Case MACT Determination** application shall be sent to U.S. EPA, Region 5 at the following address:

Ms. Sara Breneman
Chief, Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson, AE-17J
Chicago, IL 60604

The MACT application timeline specified in 40 CFR 63.43(f) allows up to 165 days plus additional time to submit additional information if needed. See "Flow Sheet for Section 112(g) Administrative Procedures and Permit Process Timelines" available at http://www.deq.state.mi.us/aps/downloads/MACT/112g.shtml .

Failure to respond to this request in the requested time frame can result in a referral to the Central Office of Ohio EPA for the appropriate enforcement action. The submission of the requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in ORC 3704.06. Ohio EPA will decide whether to pursue or decline to pursue penalties regarding this matter at a later date.

If you have any questions, please contact me at (330) 963-1205 or Christine.McPhee@epa.ohio.gov.

Sincerely,

Christine McPhee

Christine McPhee
Environmental Specialist II
Division of Air Pollution Control

CM:bo

ec: Tim Fischer, Ohio EPA, NEDO, DAPC
Misty Koletich, Ohio EPA, NEDO, DAPC
Briana Hilton, Ohio EPA, Central Office, DAPC
Dave Morehart, Ohio EPA, Central Office, DAPC
Bruce Weinberg, Ohio EPA, Central Office, DAPC
Brian Dickens, U.S. EPA, Region 5, dickens.brian@epa.gov
Charles Hall, U.S. EPA, Region 5, hall.charles@epa.gov
Mark Moloney, U.S. EPA, Region 5, moloney.mark@epa.gov
Sara Brenenman, U.S. EPA, Region 5, breneman.sara@epa.gov
Sandra Kowalski, BASF Corporation, sandy.kowalski@basf.com
Tim Anglin, BASF Corporation, tim.anglin@basf.com