



~~OFFICIAL USE ONLY – SECURITY-RELATED INFORMATION~~

**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

Region III
2443 Warrenville Road, Suite 210
Lisle IL 60532-4352

June 29, 2012

EA-12-061

Mr. Paul Nagy, Site Manager Vice President
Bayer CropScience LP
8400 Hawthorn Road, P.O. Box 4913
Kansas City, Missouri 64120-0013

SUBJECT: NOTICE OF VIOLATION – BAYER CROPSCIENCE LP
NRC ROUTINE INSPECTION REPORT NO. 03005089/2012001(DNMS)

Dear Mr. Nagy:

This refers to the inspection conducted February 27, 2012, at the Bayer CropScience LP facility in Kansas City, Missouri. The purpose of the inspection was to review licensed activities to ensure that they were being performed in accordance with NRC requirements. During the inspection, an apparent violation of NRC requirements was identified. The significance of the issue and the need for lasting and effective corrective actions were discussed with you during the telephonic inspection exit meeting on March 30, 2012. Details regarding the apparent violation were provided in the subject NRC Inspection Report No. 03005089/2012001(DNMS) dated April 26, 2012.

In the letter transmitting the inspection report, we provided you with the opportunity to address the apparent violation identified in the report by either attending a predecisional enforcement conference or by providing a written response before we made our final enforcement decision. In letters dated May 20 and June 22, 2012, you provided responses to the apparent violation.

Based on the information developed during and following the inspection, as documented in the inspection report, and the information that you provided in your May 20 and June 22, 2012, responses to the inspection report, the NRC has determined that a violation of NRC requirements occurred. The violation is cited in the Notice of Violation (Notice) in Enclosure 1 (non-public) and the circumstances surrounding it are described in detail in our inspection report dated April 26, 2012.

The enclosures contain Sensitive
Unclassified Non-Safeguards Information.
Upon separation, this cover letter is
decontrolled.

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The violation is of concern to the NRC for the reasons stated in Enclosure 2 (non-public). Therefore, the violation has been categorized, in accordance with the NRC Enforcement Policy, as a Severity Level III violation. In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$3,500 is normally considered for a Severity Level III violation. Because your facility has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process described in Section 2.3.4 of the Enforcement Policy. In your responses dated May 20 and June 22, 2012, you outlined the corrective actions that your staff had taken to correct the violation. Based on these corrective actions, as described in Enclosure 2, the NRC has determined that *Corrective Action* credit is warranted.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, I have been authorized, after consultation with the Director, Office of Enforcement, not to propose a civil penalty in this case. However, significant violations in the future could result in a civil penalty. In addition, issuance of this Severity Level III violation constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken to correct the violation, and the date when full compliance was achieved, was adequately addressed on the docket in NRC Inspection Report No. 03005089/2012001(DNMS) dated April 26, 2012, and in your responses dated May 20 and June 22, 2012. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective action or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. Additionally, if you choose to respond, please mark your entire response "Security-Related Information – Withhold from Public Disclosure under 10 CFR 2.390." In accordance with Title 10 of the Code of Federal Regulations (10 CFR) 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for any response to this letter. However, to the extent possible, your response, if any, should not include any personal privacy, proprietary, or safeguards information.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. However, because of the Security-Related Information contained in the enclosures, and in accordance with 10 CFR 2.390, copies of the enclosures will not be available for public inspection.

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Additionally, the enclosures must be protected from unauthorized disclosure. Security-Related Information is discussed in Regulatory Information Summary RIS-2005-031, "Control of Security-Related Sensitive Unclassified Non-Safeguards Information" (ML053480073), which is available on the NRC Web site or in ADAMS.

Sincerely,

/RA by C. Pederson for/

Charles A. Casto
Regional Administrator

Docket No. 030-05089
License No. 24-03830-01

Enclosures:

1. Notice of Violation (Non-Public)
2. Final Determination of Significance (Non-Public)

cc w/encls: State of Missouri