

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2006-1752-AIR-E TCEQ ID: RN102414232 CASE NO.: 31343

RESPONDENT NAME: The Dow Chemical Company

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Dow Chemical La Porte Site, 550 Battleground Road, La Porte, Harris County</p> <p>TYPE OF OPERATION: Chemical manufacturing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 30, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Daniel Siringi, Enforcement Division, Beaumont Regional Office, MC R-12, (409) 899-8799; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Ms. Janice Cupples, Responsible Care Leader/EH&S Delivery Leader, The Dow Chemical Company, P.O. Box 685, La Porte, Texas 77572-0685 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: June 25, 2006</p> <p>Date of NOE Relating to this Case: August 31, 2006(NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>AIR</p> <p>1) Failed to prevent unauthorized emissions. Specifically, 1,133 pounds of Monochlorobenzene was released during an emissions event which began on May 9, 2006 at the L-Plant and lasted one hour and 30 minutes. Since this emissions event was reported late and Dow failed to provide documentation that the emissions event could have been avoided, Dow failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE § 116.115(c), TCEQ Air Permit No. 22054, Special Condition No. 1, and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to properly notify the TCEQ of an emissions event that occurred on May 9, 2006. Specifically, the initial notification was required to be submitted by 5:05 a.m. on May 10, 2006, but was not submitted until 11:04 a.m. on May 10, 2006 [30 TEX. ADMIN. CODE § 101.201(a) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,406</p> <p>Total Deferred: \$681 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$2,725</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order:</p> <ul style="list-style-type: none"> i. Implement measures designed to prevent the recurrence of emissions events due to the same cause as the emissions event that occurred on May 9, 2006; and ii. Implement measures designed to ensure proper reporting of emissions events. <p>b) Within 45 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision April 25, 2006

DATES	Assigned	05-Sep-2006	Screening	27-Sep-2006	EPA Due	27-May-2007
	PCW	17-Oct-2006				

RESPONDENT/FACILITY INFORMATION	
Respondent	The Dow Chemical Company
Reg. Ent. Ref. No.	RN102414232
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

CASE INFORMATION			
Enf./Case ID No.	31343	No. of Violations	2
Docket No.	2006-1752-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Kimberly Morales
Multi-Media		EC's Team	Enforcement Team 6
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **Subtotals 2, 3, & 7**

Notes

Culpability **Subtotal 4**

Notes

Good Faith Effort to Comply **Subtotal 5**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with a small x)

Notes

Economic Benefit **Subtotal 6**

Total EB Amounts	\$133
Approx. Cost of Compliance	\$2,500

Notes

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 27-Sep-2006 **Docket No.** 2006-1752-AIR-E **PCW**
Respondent The Dow Chemical Company *Policy Revision 2 (September 2002)*
Case ID No. 31343 *PCW Revision April 25, 2006*
Reg. Ent. Reference No. RN102414232
Media [Statute] Air Quality
Enf. Coordinator Kimberly Morales

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 31%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty was enhanced by one 1660-style agreed order, one NOV for the same or similar violations, one NOV for unrelated violations, and two months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 31%

Screening Date 27-Sep-2006	Docket No. 2006-1752-AIR-E	PCW
Respondent The Dow Chemical Company	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31343	<i>PCW Revision April 25, 2006</i>	
Reg. Ent. Reference No. RN102414232		
Media [Statute] Air Quality		
Enf. Coordinator Kimberly Morales		
Violation Number 1		
Primary Rule Cite(s)	30 Tex. Admin. Code § 116.115(c) and TCEQ Air Permit No. 22054, Special Condition No. 1	
Secondary Rule Cite(s)	Tex. Health & Safety Code § 382.085(b)	
Violation Description	Failed to prevent unauthorized emissions. Specifically, 1,133 pounds of Monochlorobenzene was released during an emissions event which began on May 9, 2006 at the L-Plant and lasted one hour and 30 minutes. Since this emissions event was reported late and the Respondent failed to provide documentation that the emissions event could have been avoided, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.	
	Base Penalty	\$10,000

>> **Environmental, Property and Human Health Matrix**

	Harm			
	Major	Moderate	Minor	
Release				
Actual			X	Percent 25%
Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.				

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events Number of violation days

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	X

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$133

Violation Final Penalty Total \$3,275

This violation Final Assessed Penalty (adjusted for limits) \$3,275

Economic Benefit Worksheet

Respondent The Dow Chemical Company
 Case ID No. 31343
 Reg. Ent. Reference No. RN102414232
 Media [Statute] Air Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	One/Time Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$500	09-May-2006	02-Jun-2007	1.1	\$27	n/a	\$27
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	09-May-2006	02-Jun-2007	1.1	\$107	n/a	\$107

Notes for DELAYED costs: Estimated cost to implement measures designed to prevent the recurrence of an emissions event due to the same cause and ensure timely reporting of emissions events. Date required is the date of the emissions event. Final date is the projected date of completion of corrective actions.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)							
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance **\$2,500** TOTAL **\$133**

Screening Date 27-Sep-2006

Docket No. 2006-1752-AIR-E

PCW

Respondent The Dow Chemical Company

Policy Revision 2 (September 2002)

Case ID No. 31343

PCW Revision April 25, 2006

Reg. Ent. Reference No. RN102414232

Media [Statute] Air Quality

Enf. Coordinator Kimberly Morales

Violation Number

Primary Rule Cite(s)

Secondary Rule Cite(s)

Violation Description

Base Penalty

>> **Environmental, Property and Human Health Matrix**

		Harm			
Release		Major	Moderate	Minor	
OR	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	Percent <input type="text" value="1%"/>

Matrix Notes

Adjustment

Base Penalty Subtotal

Violation Events

Number of Violation Events Number of violation days

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent The Dow Chemical Company
 Case ID No. 31343
 Reg. Ent. Reference No. RN102414232
 Media [Statute] Air Quality
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

There is no economic benefit other than that already considered for Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

TOTAL

Compliance History

Customer/Respondent/Owner-Operator:	CN600356976	The Dow Chemical Company	Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN102414232	DOW CHEMICAL LA PORTE SITE	Classification: AVERAGE	Site Rating: 1.57

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	HG07690
	AIR OPERATING PERMITS	PERMIT	1365
	AIR OPERATING PERMITS	PERMIT	2890
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	1010650
	WASTEWATER	PERMIT	WQ0000663000
	WASTEWATER	PERMIT	TPDES0002933
	WASTEWATER	PERMIT	TX0002933
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD000017756
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	30464
	AIR NEW SOURCE PERMITS	REGISTRATION	72072
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG07690
	AIR NEW SOURCE PERMITS	PERMIT	52995
	AIR NEW SOURCE PERMITS	PERMIT	52993
	AIR NEW SOURCE PERMITS	PERMIT	71075
	AIR NEW SOURCE PERMITS	REGISTRATION	72851
	AIR NEW SOURCE PERMITS	REGISTRATION	73226
	AIR NEW SOURCE PERMITS	REGISTRATION	73776
	AIR NEW SOURCE PERMITS	PERMIT	77713
	AIR NEW SOURCE PERMITS	PERMIT	78856
	AIR NEW SOURCE PERMITS	PERMIT	47833
	AIR NEW SOURCE PERMITS	PERMIT	48189
	AIR NEW SOURCE PERMITS	PERMIT	50131
	AIR NEW SOURCE PERMITS	PERMIT	49948
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG07690
	AIR NEW SOURCE PERMITS	PERMIT	9801
	AIR NEW SOURCE PERMITS	PERMIT	9970
	AIR NEW SOURCE PERMITS	PERMIT	1483B
	AIR NEW SOURCE PERMITS	PERMIT	4221A
	AIR NEW SOURCE PERMITS	PERMIT	16854
	AIR NEW SOURCE PERMITS	PERMIT	1056A
	AIR NEW SOURCE PERMITS	PERMIT	10619A
	AIR NEW SOURCE PERMITS	PERMIT	5835A
	AIR NEW SOURCE PERMITS	PERMIT	1460A
	AIR NEW SOURCE PERMITS	PERMIT	1501A
	AIR NEW SOURCE PERMITS	PERMIT	6181A
	AIR NEW SOURCE PERMITS	PERMIT	19921
	AIR NEW SOURCE PERMITS	PERMIT	22054
	AIR NEW SOURCE PERMITS	PERMIT	23253
	AIR NEW SOURCE PERMITS	PERMIT	23399
	AIR NEW SOURCE PERMITS	PERMIT	23657
	AIR NEW SOURCE PERMITS	PERMIT	23898
	AIR NEW SOURCE PERMITS	PERMIT	24195
	AIR NEW SOURCE PERMITS	PERMIT	24692
	AIR NEW SOURCE PERMITS	PERMIT	24657
	AIR NEW SOURCE PERMITS	PERMIT	27082
	AIR NEW SOURCE PERMITS	PERMIT	28424
	AIR NEW SOURCE PERMITS	PERMIT	31892
	AIR NEW SOURCE PERMITS	PERMIT	32718
	AIR NEW SOURCE PERMITS	PERMIT	39326
	AIR NEW SOURCE PERMITS	PERMIT	39492
	AIR NEW SOURCE PERMITS	PERMIT	39986
	AIR NEW SOURCE PERMITS	PERMIT	40712
	AIR NEW SOURCE PERMITS	PERMIT	43475
	AIR NEW SOURCE PERMITS	PERMIT	43528
	AIR NEW SOURCE PERMITS	PERMIT	45102
	AIR NEW SOURCE PERMITS	PERMIT	45849
	AIR NEW SOURCE PERMITS	PERMIT	46465
	AIR NEW SOURCE PERMITS	AFS NUM	0053
	AIR NEW SOURCE PERMITS	REGISTRATION	79295
	AIR NEW SOURCE PERMITS	REGISTRATION	79448
	WATER LICENSING	LICENSE	1010650
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)	30464
	INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50202

INDUSTRIAL AND HAZARDOUS WASTE STORAGE	PERMIT	50253
INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS	PERMIT	50253

Location: 550 BATTLEGROUND RD, LA PORTE, TX, 77571 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: October 17, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: October 17, 2001 to October 17, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Kimberly Morales Phone: (713) 422-8938

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 10/11/2004

ADMINORDER 2003-1507-AIR-E

Classification: Major

Citation: 30 TAC Chapter 113, SubChapter C 113.130
30 TAC Chapter 115, SubChapter D 115.356[G]

40 CFR Chapter 63, SubChapter C, PT 63, SubPT H 63.181(d)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failed to maintain fugitive emission records that contained the minimum information required by the regulation.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 5 PERMIT

Description: Failed to conduct quarterly ammonia sampling on the inlet wastewater flow to the wastewater treatment facility.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 01/21/2003 | (155816) |
| 2 | 01/22/2002 | (155815) |
| 3 | 08/30/2006 | (509481) |
| 4 | 05/12/2006 | (461887) |
| 5 | 12/30/2002 | (155812) |
| 6 | 09/01/2006 | (510415) |
| 7 | 01/21/2005 | (342603) |
| 8 | 12/18/2001 | (155811) |
| 9 | 04/11/2006 | (460634) |
| 10 | 11/25/2002 | (155808) |
| 11 | 11/19/2001 | (155807) |
| 12 | 09/30/2004 | (280341) |
| 13 | 07/26/2004 | (351717) |

14	08/31/2002	(9617)
15	10/25/2002	(155804)
16	04/29/2005	(419469)
17	05/26/2005	(419470)
18	08/30/2004	(351718)
19	11/01/2001	(155803)
20	06/29/2005	(419471)
21	09/09/2003	(153084)
22	09/19/2002	(155801)
23	09/28/2004	(351719)
24	10/26/2004	(351720)
25	10/28/2002	(12911)
26	09/01/2006	(510406)
27	08/22/2002	(155798)
28	01/27/2004	(260901)
29	02/23/2004	(294459)
30	11/29/2004	(351721)
31	08/22/2006	(509279)
32	06/09/2005	(341900)
33	09/01/2006	(478665)
34	07/24/2003	(155795)
35	07/24/2002	(155794)
36	03/29/2004	(294462)
37	11/29/2004	(338779)
38	08/18/2006	(497103)
39	06/26/2003	(155791)
40	06/24/2002	(155790)
41	04/27/2004	(294463)
42	07/08/2005	(395323)
43	05/20/2003	(155787)
44	06/01/2004	(294465)
45	05/23/2002	(155786)
46	03/14/2005	(372475)
47	06/25/2004	(294467)
48	04/23/2003	(28208)
49	04/25/2003	(155783)
50	08/22/2003	(294470)
51	02/22/2006	(468091)
52	04/22/2002	(155782)
53	03/05/2004	(250819)
54	03/21/2006	(468092)
55	07/02/2002	(2791)
56	09/25/2003	(294472)
57	04/19/2006	(468093)
58	11/21/2005	(468094)
59	10/30/2003	(294474)
60	12/22/2005	(468095)
61	11/21/2003	(294476)
62	01/18/2006	(468096)
63	03/24/2003	(155778)
64	03/25/2002	(155777)
65	11/15/2001	(104133)
66	10/02/2002	(12752)
67	11/26/2001	(104134)
68	12/13/2001	(104135)
69	12/19/2001	(104136)
70	12/29/2003	(294478)
71	02/24/2003	(155775)
72	12/19/2001	(104137)
73	12/19/2001	(104138)
74	02/19/2002	(155774)
75	07/21/2005	(440620)
76	12/20/2001	(104139)
77	08/15/2005	(440621)
78	02/21/2002	(104140)
79	01/23/2004	(294480)
80	02/22/2002	(104141)
81	09/20/2005	(440622)

82 02/28/2006 (457223)
 83 02/26/2002 (104142)
 84 02/28/2002 (104143)
 85 10/24/2005 (440623)
 86 02/28/2002 (104144)
 87 03/25/2002 (104145)
 88 03/17/2006 (457465)
 89 05/01/2002 (104146)
 90 05/16/2002 (104147)
 91 10/25/2004 (336352)
 92 05/28/2002 (104148)
 93 07/02/2002 (2235)
 94 05/29/2002 (104149)
 95 05/31/2002 (104150)
 96 05/31/2002 (104151)
 97 05/31/2002 (104152)
 98 03/17/2006 (457346)
 99 01/20/2006 (451074)
 100 05/22/2003 (29849)
 101 03/29/2005 (381672)
 102 12/28/2004 (381673)
 103 01/24/2005 (381674)
 104 10/02/2002 (13037)
 105 12/02/2003 (256473)
 106 05/24/2006 (497971)
 107 06/21/2006 (497972)
 108 07/21/2006 (497973)
 109 09/01/2004 (284811)
 110 05/27/2003 (36074)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 10/31/2001 (155807)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/09/2005 (341900)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 5C THC Chapter 382, SubChapter A 382.085(b)
 Rqmt Prov: PERMIT IA
 Description: Failed to address excessive vibration of the exchanger (which was caused by a design
 flaw) prior to the occurrence of this incident.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)
 Description: Failure to determine the correct leak rate when the leak was first discovered on August
 16, 2004, and submit the Initial Notification at that time.
 Date: 02/29/2004 (294462)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/28/2002 (12911)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)(3)(A)
 Description: Failure by the regulated entity to be under the direct supervision of a licensed water
 works operator.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
THE DOW CHEMICAL COMPANY
RN102414232**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2006-1752-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding The Dow Chemical Company ("Dow") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Dow appear before the Commission and together stipulate that:

1. Dow owns and operates a chemical manufacturing plant at 550 Battleground Road in La Porte, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Dow agree that the Commission has jurisdiction to enter this Agreed Order, and that Dow is subject to the Commission's jurisdiction.
4. Dow received notice of the violations alleged in Section II ("Allegations") on or about September 5, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Dow of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Three Thousand Four Hundred Six Dollars (\$3,406) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Dow has paid Two Thousand Seven Hundred Twenty-Five Dollars (\$2,725) of the administrative penalty and Six Hundred Eighty-One Dollars (\$681) is deferred contingent upon Dow's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Dow fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Dow to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Dow have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Dow has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Dow is alleged to have:

1. Failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE § 116.115(c), TCEQ Air Permit No. 22054, Special Condition No. 1 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 25, 2006. Specifically, 1,133 pounds of Monochlorobenzene was released during an emissions event which began on May 9, 2006 at the L-Plant and lasted one hour and 30 minutes. Since this emissions event was reported late and Dow failed to provide documentation that the emissions event could have been avoided, Dow failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.
2. Failed to properly notify the TCEQ of an emissions event that occurred on May 9, 2006, in violation of 30 TEX. ADMIN. CODE § 101.201(a) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on June 25, 2006. Specifically, the initial notification was required to be submitted by 5:05 a.m. on May 10, 2006, but was not submitted until 11:04 a.m. on May 10, 2006.

III. DENIALS

Dow generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Dow pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Dow's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The Dow Chemical Company, Docket No. 2006-1752-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Dow shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement measures designed to prevent the recurrence of emissions events due to the same cause as the emissions event that occurred on May 9, 2006; and
 - ii. Implement measures designed to ensure proper reporting of emissions events.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

The first part of the document discusses the importance of maintaining accurate records. It highlights the need for consistency and the potential consequences of errors. The text emphasizes that proper record-keeping is essential for the integrity of the data and the reliability of the results.

The second part of the document details the methodology used in the study. It describes the experimental setup, the data collection process, and the statistical analysis performed. The authors provide a clear and concise explanation of the procedures followed to ensure the validity of the findings.

The results of the study are presented in the third part of the document. The authors discuss the key findings and compare them with previous research. They provide a detailed analysis of the data, highlighting the significant differences and the implications of the results. The text is supported by various charts and tables that illustrate the data trends.

The fourth part of the document discusses the limitations of the study and the potential areas for future research. The authors acknowledge the constraints of the current study and suggest ways to improve the methodology and expand the scope of the research. This section provides valuable insights into the challenges faced during the study and the directions for further exploration.

The final part of the document concludes the study and summarizes the main findings. The authors reiterate the importance of the research and the contributions it has made to the field. They express their gratitude to the funding agencies and the participants who made the study possible. The conclusion provides a clear and concise summary of the entire document, leaving the reader with a comprehensive understanding of the study's objectives and outcomes.

The authors would like to thank the following individuals for their assistance and support during the course of this study: [Names of individuals].

with a copy to:

Manager, Air Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon Dow. Dow is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Dow fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Dow's failure to comply is not a violation of this Agreed Order. Dow shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Dow shall notify the Executive Director within seven days after Dow becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Dow shall be made in writing to the Executive Director. Extensions are not effective until Dow receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Dow in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Dow, or three days after the date on which the Commission mails notice of the Order to Dow, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

5/21/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is rationally relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Janice Cupples
Signature

3/5/07
Date

Janice Cupples
Name (Printed or Typed)
Authorized Representative of
The Dow Chemical Company

Responsible Care Leader /
Title
EH&S Delivery Leader

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

