

**Executive Summary – Enforcement Matter – Case No. 48324  
The Dow Chemical Company  
RN102414232  
Docket No. 2014-0300-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Dow Chemical La Porte Site, 550 Independence Parkway South, La Porte, Harris County

**Type of Operation:**

Industrial organic chemical manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 20, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$31,960

**Amount Deferred for Expedited Settlement:** \$6,392

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$12,784

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$12,784

Name of SEP: Houston-Galveston Area Council

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 10, 2013

**Date(s) of NOE(s):** February 10, 2014

**Executive Summary – Enforcement Matter – Case No. 48324**  
**The Dow Chemical Company**  
**RN102414232**  
**Docket No. 2014-0300-AIR-E**

***Violation Information***

1. Failed to report all instances of deviations. Specifically, the deviation reports for the September 16, 2012 through March 15, 2013 and March 16, 2013 through September 15, 2013 reporting periods did not include deviations for failure to conduct quarterly leak detection and repair ("LDAR") monitoring of 4,090 connectors in volatile organic compound ("VOC") service [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1365, General Terms and Conditions].
2. Failed to conduct quarterly LDAR monitoring of all applicable components. Specifically, quarterly LDAR monitoring of 4,090 connectors in VOC service was not conducted during the year 2012 and the first, second, and third quarters of 2013 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. O1365, Special Terms and Conditions Nos. 1A and 15, and New Source Review Permit No. 48189, Special Conditions No. 6].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. On December 19, 2013, conducted LDAR monitoring of 4,090 connectors in VOC service and added the components to the LDAR monitoring database; and
- b. On January 27, 2014, submitted a revised deviation report for the March 16, 2013 through September 15, 2013 reporting period.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 48324**  
**The Dow Chemical Company**  
**RN102414232**  
**Docket No. 2014-0300-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Denise DeLaune, Responsible Care Leader, The Dow Chemical Company, P.O. Box 685, La Porte, Texas 77572  
Susan Lewis, Operations Director, The Dow Chemical Company, P.O. Box 1000 Deer Park, Texas 77536

**Respondent's Attorney:** N/A



**Attachment A**

**Docket Number: 2014-0300-AIR-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>The Dow Chemical Company</b>
<b>Penalty Amount:</b>	<b>Twenty-Five Thousand Five Hundred Sixty-Eight Dollars (\$25,568)</b>
<b>SEP Offset Amount:</b>	<b>Twelve Thousand Seven Hundred Eighty-Four Dollars (\$12,784)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b><u>Location of SEP:</u> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties</b>	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO ("AERCO")** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

The Dow Chemical Company  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES** Assigned  PCW  Screening  EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent   
 Reg. Ent. Ref. No.   
 Facility/Site Region  Major/Minor Source

## CASE INFORMATION

Enf./Case ID No.  No. of Violations   
 Docket No.  Order Type   
 Media Program(s)  Government/Non-Profit   
 Multi-Media  Enf. Coordinator   
 EC's Team

Admin. Penalty \$ Limit Minimum  Maximum

## 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**  Enhancement Subtotals 2, 3, & 7

Notes

**Culpability**   Enhancement Subtotal 4

Notes

**Good Faith Effort to Comply Total Adjustments** Subtotal 5

**Economic Benefit**  Enhancement\* Subtotal 6

Total EB Amounts   
 Approx. Cost of Compliance  \*Capped at the Total EB \$ Amount

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

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  Adjustment

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty

**DEFERRAL**  Reduction Adjustment

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

Notes

**PAYABLE PENALTY**

Screening Date 24-Feb-2014

Docket No. 2014-0300-AIR-E

PCW

Respondent The Dow Chemical Company

Policy Revision 3 (September 2011)

Case ID No. 48324

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102414232

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
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 submitted</i> )	12	-12%
	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> )	2	-4%

Please Enter Yes or No

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) 4%

#### >> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

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

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

#### >> Compliance History Summary

Compliance History Notes

Enhancement for one order containing a denial of liability. Reduction for 12 notices of intent to conduct an audit and two disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 4%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 4%

Screening Date 24-Feb-2014  
 Respondent The Dow Chemical Company  
 Case ID No. 48324

Docket No. 2014-0300-AIR-E

PCW

Policy Revision 3 (September 2011)  
 PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102414232  
 Media [Statute] Air  
 Enf. Coordinator Amancio R. Gutierrez  
 Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2)(A), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O1365, General Terms and Conditions

Violation Description Failed to report all instances of deviations. Specifically, the deviation reports for the September 16, 2012 through March 15, 2013 and March 16, 2013 through September 15, 2013 reporting periods did not include deviations for failure to conduct quarterly leak detection and repair ("LDAR") monitoring of 4,090 connectors in volatile organic compound ("VOC") service.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
		x		7.0%

Matrix Notes Between 30% and 70% of the rule requirement was met.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 2 Number of violation days 652

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$3,500

Two single events are recommended.

Good Faith Efforts to Comply

25.0% Reduction \$875

Extraordinary	Before NOV	NOV to EDPRP/Settlement Offer
	Ordinary	x
N/A		(mark with x)

Notes The Respondent completed corrective measures on January 27, 2014, before the February 10, 2014 Notice of Enforcement ("NOE").

Violation Subtotal \$2,625

Economic Benefit (EB) for this violation

Estimated EB Amount \$10

Statutory Limit Test

Violation Final Penalty Total \$7,102

This violation Final Assessed Penalty (adjusted for limits) \$7,102

# Economic Benefit Worksheet

**Respondent** The Dow Chemical Company  
**Case ID No.** 48324  
**Reg. Ent. Reference No.** RN102414232  
**Media** Air  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$250	12-Apr-2013	27-Jan-2014	0.79	\$10	n/a	\$10

Notes for DELAYED costs

Estimated cost to submit the revised deviation report. The Date Required is the date by which the first deviation report was due and the Final Date is the date the revised deviation report was submitted.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

**TOTAL**

\$10

Screening Date 24-Feb-2014

Docket No. 2014-0300-AIR-E

PCW

Respondent The Dow Chemical Company

Policy Revision 3 (September 2011)

Case ID No. 48324

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102414232

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), FOP No. O1365, Special Terms and Conditions Nos. 1A and 15, and New Source Review Permit No. 48189, Special Conditions No. 6

Violation Description Failed to conduct quarterly LDAR monitoring of all applicable components. Specifically, quarterly LDAR monitoring of 4,090 connectors in VOC service was not conducted during the year 2012 and the first, second, and third quarters of 2013.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				7.0%
Potential			x	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0.0%

Matrix Notes Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 7 Number of violation days 638

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$12,250

Seven single events are recommended for the seven quarters that LDAR monitoring was not conducted.

Good Faith Efforts to Comply

25.0% Reduction Before NOV NOV to EDPRP/Settlement Offer \$3,062

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent completed corrective measures on December 19, 2013, before the February 10, 2014 NOE.

Violation Subtotal \$9,188

Economic Benefit (EB) for this violation

Estimated EB Amount \$19,615

Statutory Limit Test

Violation Final Penalty Total \$24,858

This violation Final Assessed Penalty (adjusted for limits) \$24,858

# Economic Benefit Worksheet

**Respondent** The Dow Chemical Company  
**Case ID No.** 48324  
**Reg. Ent. Reference No.** RN102414232  
**Media** Air  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$1,000	1-Jan-2012	19-Dec-2013	1.97	\$98	n/a	\$98
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct LDAR monitoring and add the connectors to the LDAR monitoring database. The Date Required is the first date of non-compliance and the Final Date is the date of compliance.

**Avoided Costs**

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling	\$10,634	1-Jan-2012	30-Sep-2013	1.75	\$929	\$18,588	\$19,517
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost of not monitoring 4,090 connectors (4,090 components x \$2.60 per component per year). The Date Required and the Final Date are the first and last days of the quarters when monitoring was not conducted.

Approx. Cost of Compliance

	\$11,634
--	----------

<b>TOTAL</b>	\$19,615
--------------	----------



# Compliance History Report

**PUBLISHED** Compliance History Report for CN600356976, RN102414232, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600356976, The Dow Chemical Company	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 2.26
<b>Regulated Entity:</b>	RN102414232, DOW CHEMICAL LA PORTE SITE	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	27	<b>Repeat Violator:</b> NO	
<b>CH Group:</b>	05 - Chemical Manufacturing		
<b>Location:</b>	550 INDEPENDENCE PKWY S LA PORTE, TX 77571-9768, HARRIS COUNTY		
<b>TCEQ Region:</b>	REGION 12 - HOUSTON		

## ID Number(s):

- |  |   |
|--|---|
| AIR OPERATING PERMITS ACCOUNT NUMBER HG07690                 | AIR OPERATING PERMITS PERMIT 1365                                     |
| AIR OPERATING PERMITS PERMIT 3028                            | AIR OPERATING PERMITS PERMIT 2890                                     |
| AIR OPERATING PERMITS PERMIT 3028                            | INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50253                           |
| INDUSTRIAL AND HAZARDOUS WASTE EPA ID TXD000017756           | INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE REGISTRATION # (SWR) 30464 |
| INDUSTRIAL AND HAZARDOUS WASTE PERMIT 50202                  | POLLUTION PREVENTION PLANNING ID NUMBER P00181                        |
| PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1010650              | WASTEWATER PERMIT WQ0000663000  |
| WASTEWATER EPA ID TX0002933                                  | AIR NEW SOURCE PERMITS AFS NUM 4820100053                             |
| AIR NEW SOURCE PERMITS REGISTRATION 72072                    | AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG07690                         |
| AIR NEW SOURCE PERMITS REGISTRATION 52993                    | AIR NEW SOURCE PERMITS REGISTRATION 52995                             |
| AIR NEW SOURCE PERMITS REGISTRATION 47833                    | AIR NEW SOURCE PERMITS PERMIT 48189                                   |
| AIR NEW SOURCE PERMITS REGISTRATION 50131                    | AIR NEW SOURCE PERMITS REGISTRATION 49948                             |
| AIR NEW SOURCE PERMITS REGISTRATION 1056A                    | AIR NEW SOURCE PERMITS REGISTRATION 10619A                            |
| AIR NEW SOURCE PERMITS PERMIT 5835A                          | AIR NEW SOURCE PERMITS PERMIT 19921                                   |
| AIR NEW SOURCE PERMITS REGISTRATION 23253                    | AIR NEW SOURCE PERMITS REGISTRATION 23399                             |
| AIR NEW SOURCE PERMITS REGISTRATION 23657                    | AIR NEW SOURCE PERMITS REGISTRATION 23898                             |
| AIR NEW SOURCE PERMITS REGISTRATION 24195                    | AIR NEW SOURCE PERMITS REGISTRATION 24692                             |
| AIR NEW SOURCE PERMITS REGISTRATION 24657                    | AIR NEW SOURCE PERMITS REGISTRATION 27082                             |
| AIR NEW SOURCE PERMITS REGISTRATION 28424                    | AIR NEW SOURCE PERMITS REGISTRATION 31892                             |
| AIR NEW SOURCE PERMITS REGISTRATION 39326                    | AIR NEW SOURCE PERMITS REGISTRATION 39492                             |
| AIR NEW SOURCE PERMITS REGISTRATION 39986                    | AIR NEW SOURCE PERMITS REGISTRATION 43475                             |
| AIR NEW SOURCE PERMITS REGISTRATION 43528                    | AIR NEW SOURCE PERMITS REGISTRATION 45102                             |
| AIR NEW SOURCE PERMITS REGISTRATION 45849                    | 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 REGISTRATION 79448                             |
| AIR NEW SOURCE PERMITS REGISTRATION 79295                    | AIR NEW SOURCE PERMITS REGISTRATION 80023                             |
| AIR NEW SOURCE PERMITS REGISTRATION 82810                    | AIR NEW SOURCE PERMITS PERMIT 83785                                   |
| AIR NEW SOURCE PERMITS REGISTRATION 82817                    | AIR NEW SOURCE PERMITS REGISTRATION 82509                             |
| AIR NEW SOURCE PERMITS REGISTRATION 92253                    | AIR NEW SOURCE PERMITS REGISTRATION 96705                             |
| AIR NEW SOURCE PERMITS REGISTRATION 100487                   | AIR NEW SOURCE PERMITS REGISTRATION 101970                            |
| AIR NEW SOURCE PERMITS REGISTRATION 110827                   | AIR NEW SOURCE PERMITS REGISTRATION 109897                            |
| AIR NEW SOURCE PERMITS REGISTRATION 110845                   | AIR NEW SOURCE PERMITS REGISTRATION 110839                            |
| AIR NEW SOURCE PERMITS REGISTRATION 110841                   | AIR NEW SOURCE PERMITS REGISTRATION 110831                            |
| AIR NEW SOURCE PERMITS REGISTRATION 107138                   | AIR NEW SOURCE PERMITS REGISTRATION 110833                            |
| IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION # (SWR) 30464 | AIR EMISSIONS INVENTORY ACCOUNT NUMBER HG07690                        |

**Compliance History Period:** September 01, 2008 to August 31, 2013      **Rating Year:** 2013      **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** February 19, 2014

**Agency Decision Requiring Compliance History:** Enforcement

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Amancio R. Gutierrez

Phone: (512) 239-3921

**Site and Owner/Operator History:**

- 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/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

1 Effective Date: 07/09/2009 ADMINORDER 2009-0122-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
5C THSC Chapter 382 382.085(b)  
Rqmt Prov: General Condition No. 8 PERMIT  
Description: Failed to prevent a leak on the recycle pipeline of the MCB Recovery Unit Feed Tank R-200A on August 24, 2008. The cause of the leak was internal corrosion. Because these emissions could have been foreseen and avoided by better maintenance practices, the demonstrations for an affirmative defense in 30 TEX. ADMIN CODE § 101.222 could not be met.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	March 16, 2009	(723821)
Item 2	March 19, 2009	(750088)
Item 3	April 15, 2009	(750089)
Item 4	May 21, 2009	(768245)
Item 5	June 11, 2009	(768246)
Item 6	June 15, 2009	(768247)
Item 7	August 20, 2009	(766488)
Item 8	September 24, 2009	(804256)
Item 9	October 13, 2009	(804258)
Item 10	November 19, 2009	(804259)
Item 11	December 17, 2009	(804260)
Item 12	January 19, 2010	(804261)
Item 13	February 19, 2010	(804255)
Item 14	March 18, 2010	(830727)
Item 15	April 18, 2010	(830728)
Item 16	April 22, 2010	(799477)
Item 17	April 23, 2010	(796455)
Item 18	May 12, 2010	(830729)
Item 19	June 16, 2010	(846217)
Item 20	July 02, 2010	(828467)
Item 21	July 19, 2010	(860815)
Item 22	August 18, 2010	(866777)
Item 23	October 19, 2010	(881455)
Item 24	November 19, 2010	(887985)
Item 25	December 16, 2010	(896182)

Item 26	January 18, 2011	(902258)
Item 27	February 16, 2011	(909033)
Item 28	March 16, 2011	(916294)
Item 29	April 14, 2011	(912604)
Item 30	April 20, 2011	(913044)
Item 31	May 19, 2011	(937974)
Item 32	June 16, 2011	(945289)
Item 33	July 18, 2011	(952573)
Item 34	August 16, 2011	(959252)
Item 35	September 20, 2011	(965284)
Item 36	October 18, 2011	(971327)
Item 37	November 17, 2011	(977485)
Item 38	December 15, 2011	(984254)
Item 39	January 17, 2012	(990553)
Item 40	February 13, 2012	(970670)
Item 41	February 16, 2012	(997918)
Item 42	March 19, 2012	(1003435)
Item 43	April 19, 2012	(1010001)
Item 44	May 17, 2012	(1016395)
Item 45	June 19, 2012	(1024118)
Item 46	July 11, 2012	(980726)
Item 47	July 19, 2012	(1031513)
Item 48	August 20, 2012	(1037888)
Item 49	September 19, 2012	(1046612)
Item 50	October 18, 2012	(1060705)
Item 51	November 19, 2012	(1060706)
Item 52	December 13, 2012	(1060707)
Item 53	January 17, 2013	(1078861)
Item 54	February 19, 2013	(1078860)
Item 55	February 28, 2013	(1051436)
Item 56	March 06, 2013	(1050256)
Item 57	March 19, 2013	(1089255)
Item 58	April 18, 2013	(1095649)
Item 59	May 20, 2013	(1106574)
Item 60	June 18, 2013	(1110250)
Item 61	June 28, 2013	(1099224)
Item 62	July 12, 2013	(1117128)
Item 63	August 14, 2013	(1124888)
Item 64	September 18, 2013	(1129490)
Item 65	October 17, 2013	(1135219)
Item 66	November 18, 2013	(1140619)
Item 67	December 19, 2013	(1147076)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

Notice of Intent Date: 11/19/2008 (722253)

Disclosure Date: 10/16/2009

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)

Description: Failure to contain particulate matter collected from the dust collection system in such a way that it shall not be allowed to escape into the atmosphere when removed from the dust collection system.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)

Description: Failure to ensure the XPS plant visible emission checklist contained two emission points (FL-1200-1) -- Railcar Off Load Vent and (FL-1200-) -- Silo Filter Vent that presumably emit small levels of particulate matter emissions. These two sources don't appear on the Maximum allowable Emission Rates Table and may not be authorized by the Texas NSR air permitting program.

Viol. Classification: Moderate

**Published Compliance History Report for CN600356976, RN102414232, Rating Year 2013 which includes Compliance History (CH) components from February 19, 2009, through February 19, 2014.**

- Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)  
Description: Failure to equip Vessels C-133 and C-118 with an adequate pressure gauge and display to satisfy permit requirements.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)  
Description: Failure to use on-line gas chromatographs to meet the Continuous Emission Monitoring Systems (CEMS) requirements for the carbon adsorption units that do not meet PS-8 for total hydrocarbon analyzers as required by the air permit.  
Viol. Classification: Minor
- Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)  
Description: Failure to label two furnaces, Boiler 5, and Boiler 6 in the field with the TCEQ FIN and EPN numbers as required by the air permit.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
Description: Failure to ensure plug-in valves are on all Heat Treating Units. Specifically, Heat Treating Unit R-118 contained an open ended valve.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
Description: Failure to list all exemptions from NSPS NNN within Title V Operation Permit O1365. Specifically, C-1315 was not listed as an exemption.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter C 115.217(a)(1)  
Description: Failure to ensure all loading operations are listed in the Title V Permit. Specifically, two loading operations (MCB loading and Phenco waste loading) were not listed in Title V Permit O-1365.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
Description: Failure to ensure plant documentation is readily available for the transfer rack to unload iso-tainers of MDI/MCB as required by the Organic Liquids Distribution (OLD) MACT.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 117, SubChapter B 117.354(a)  
Description: Failure to correctly list exemptions for the diesel pumps within the Updated Final Control Plan submitted in April 2008.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 115, SubChapter C 115.226(2)(B)  
Description: Failure to ensure the monthly throughput of the motor vehicle fuel dispensing facility is based on gasoline purchases rather than actual monthly gasoline throughput data.  
Viol. Classification: Minor
- Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)  
Description: Failure to ensure a gas stream flow determination plan exists to document the appropriate method that will be used to determine the gas stream flow for caustic scrubbers. The daily average liquid-to-gas ratio for these caustic scrubbers is not being kept or compared to the limit established in the design evaluation that was included as part of the MON Notification of Compliance Status.  
Viol. Classification: Minor
- Citation: 30 TAC Chapter 115, SubChapter D 115.356  
Description: Failure to correctly identify fugitive monitoring components as Difficult to Monitor. Specifically, not all DTM components listed in the report identified a reason for the component to be DTM.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 335, SubChapter A 335.1(140)  
30 TAC Chapter 335, SubChapter E 335.111  
Description: Failure to ensure the wastewater activated sludge/process wastewater tanks are properly maintained. Specifically, the tanks had cracks and weeds in the tank concrete walls. At least one area of one wastewater tank had a triangular piece of concrete being pushed above the plain of the surrounding concrete.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
Description: Failure to ensure hazardous waste containers in satellite accumulation areas (SAA) in the lab are closed such that there are no containment gaps.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 335, SubChapter O 335.431(c)(1)  
30 TAC Chapter 335, SubChapter O 335.431(d)(4)  
Description: Failure to ensure hazardous wastes generated on-site that are treated on-site in exempt systems have a corresponding "notice to the site" file.  
Viol. Classification: Moderate
- Citation: 30 TAC Chapter 335, SubChapter H 335.261  
30 TAC Chapter 335, SubChapter H 335.262  
Description: Failure to ensure Universal Waste (UW) storage meets the UW storage requirements.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(9)  
Description: Failure to ensure hazardous waste tanks contain an acceptable secondary containment.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 324, SubChapter A 324.6  
30 TAC Chapter 335, SubChapter H 335.261  
30 TAC Chapter 335, SubChapter H 335.262  
30 TAC Chapter 335, SubChapter C 335.69

Description: Failure to ensure waste containers were labeled consistently with the material.  
Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(1)

Description: Failure to ensure all hazardous waste check sheets are completed.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)  
30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
30 TAC Chapter 290, SubChapter D 290.46(m)  
30 TAC Chapter 290, SubChapter D 290.46(s)

Description: Failure to ensure all calibration records are maintained and accessible.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)

Description: Failure to submit the lab approval form for the HACH instrument to the TCEQ and ensure the HACH system chemical and microbiological monitoring plan is maintained at each plant and at a central location.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)

Description: Failure to ensure fresh ammonia gas is available for testing of chlorine leaks.

Notice of Intent Date: 06/25/2009 (761346)  
No DOV Associated

Notice of Intent Date: 10/14/2009 (782812)  
No DOV Associated

Notice of Intent Date: 11/24/2009 (789311)  
No DOV Associated

Notice of Intent Date: 03/15/2010 (798959)  
No DOV Associated

Notice of Intent Date: 06/21/2010 (829163)  
No DOV Associated

Notice of Intent Date: 04/11/2011 (913516)  
Disclosure Date: 10/13/2011  
Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP FOP No. O1365  
PERMIT Special Conditions No. 12B

Description: Failed to calibrate GC analyzers on carbon absorber beds (SCRC124) on a monthly basis.  
Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: OP FOP No. O1365  
PERMIT NSR Permit No. 5835A, SC No. 9I

Description: Failed to document the removal of spent carbon, as required by the air permit.

Notice of Intent Date: 07/05/2011 (941164)  
No DOV Associated

Notice of Intent Date: 10/03/2011 (964557)  
No DOV Associated

Notice of Intent Date: 01/23/2013 (1073107)  
No DOV Associated

Notice of Intent Date: 01/24/2013 (900183)

No DOV Associated

Notice of Intent Date: 04/10/2013 (1085987)

No DOV Associated

Notice of Intent Date: 05/30/2013 (1099850)

No DOV Associated

**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. 2014-0300-AIR-E**

**I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, 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 ("Respondent") 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 the Respondent together stipulate that:

1. The Respondent owns and operates an industrial organic chemical manufacturing plant at 550 Independence Parkway South 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 Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 15, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Thirty-One Thousand Nine Hundred Sixty Dollars (\$31,960) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Twelve Thousand Seven Hundred Eighty-Four Dollars (\$12,784) of the administrative penalty and Six Thousand Three

- Hundred Ninety-Two Dollars (\$6,392) is deferred contingent upon the Respondent'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 the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Twelve Thousand Seven Hundred Eighty-Four Dollars (\$12,784) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
  9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
    - a. On December 19, 2013, conducted leak detection and repair ("LDAR") monitoring of 4,090 connectors in volatile organic compound ("VOC") service and added the components to the LDAR monitoring database; and
    - b. On January 27, 2014, submitted a revised deviation report for the March 16, 2013 through September 15, 2013 reporting period.
  10. 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 the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  11. 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.
  12. 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, the Respondent is alleged to have:

1. Failed to report all instances of deviations, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2)(A), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1365, General Terms and Conditions, as documented during an investigation conducted on December 10, 2013. Specifically, the deviation reports for the September 16, 2012 through March 15, 2013 and March 16, 2013 through September 15, 2013 reporting periods did not include deviations for failure to conduct quarterly LDAR monitoring of 4,090 connectors in VOC service.

2. Failed to conduct quarterly LDAR monitoring of all applicable components, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), FOP No. 01365, Special Terms and Conditions Nos. 1A and 15, and New Source Review Permit No. 48189, Special Conditions No. 6, as documented during an investigation conducted on December 10, 2013. Specifically, quarterly LDAR monitoring of 4,090 connectors in VOC service was not conducted during the year 2012 and the first, second, and third quarters of 2013.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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. 2014-0300-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Seven Hundred Eighty-Four Dollars (\$12,784) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 the Respondent 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, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 the Respondent 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 Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

7/18/14  
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 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 materially relying on such representation.

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

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- 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;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

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

  
Signature

5/5/2014  
Date

Denise Delaune  
Name (Printed or typed)  
Authorized Representative of  
The Dow Chemical Company

Responsible Care Leader  
Title

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



**Attachment A**  
**Docket Number: 2014-0300-AIR-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>The Dow Chemical Company</b>
<b>Penalty Amount:</b>	<b>Twenty-Five Thousand Five Hundred Sixty-Eight Dollars (\$25,568)</b>
<b>SEP Offset Amount:</b>	<b>Twelve Thousand Seven Hundred Eighty-Four Dollars (\$12,784)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Houston-Galveston Area Council-AERCO ("AERCO")</b>
<b>Project Name:</b>	<b><i>Clean Vehicles Partnership Project</i></b>
<b><u>Location of SEP:</u> Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton Counties</b>	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston-Galveston Area Council-AERCO ("AERCO")** for the *Clean Vehicles Partnership Project*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to to replace old, higher emission buses that do not meet 2010 Environmental Protection Agency ("EPA") emissions standards ("Old Buses") with new, lower emission buses that meet the most recent EPA emissions standards ("New Buses") or to retrofit or convert Old Buses with emissions reducing equipment. The Third-Party Administrator shall allocate the SEP Offset Amount to public entities such as school districts, local governments, and public transit authorities ("SEP Administrators") that apply for replacement, retrofit, or conversion of buses.

The SEP Offset Amount may also be used for retrofit or conversion technology that brings an Old Bus up to current EPA emissions standards. New Buses may be alternative-fueled. The SEP Offset Amount may be used for up to 100% of the replacement, conversion, or retrofit cost. The SEP Offset Amount will be used only for purchase of New Buses or conversion or retrofit equipment and contract labor for installation of equipment. The SEP Offset Amount will not be used for financing such a purchase through a lease-purchase or similar agreement.

Retrofitting means reducing exhaust emissions to current standards by installing devices that are verified or certified by the EPA or the California Air Resources Board as proven retrofit technologies. Converting means replacing an engine system with an alternative fuel engine system to bring the Old Bus within the current EPA emissions standards. Buses to be replaced, retrofitted, or converted must be in regular use (driven at least five hundred miles per year for at least the past two years) by the SEP Administrator and must not already be scheduled for replacement in the following twenty-four months. All replaced buses must be fully decommissioned. The Third-Party Administrator shall provide proof of decommissioning to TCEQ for each replaced vehicle by submitting a copy of the TCEQ SEP Vehicle Replacement Disposition Form. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, by replacing a 1989 diesel bus with a 2010 ultra-low emission model, passengers' exposure to nitrogen oxides may be reduced by 98 percent; volatile organic compounds by 93 percent; carbon dioxide by 83 percent; and particulate matter by 99 percent. In addition, by encouraging less bus idling, this SEP contributes to public awareness of air pollution and air quality.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Houston-Galveston Area Council-AERCO SEP** and shall mail the contribution with a copy of the Agreed Order to:

Houston-Galveston Area Council-AERCO  
P.O. Box 22777  
Houston, Texas 77227-2777

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

The Dow Chemical Company  
Agreed Order - Attachment A

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.