

**Executive Summary – Enforcement Matter – Case No. 60159**  
**The Dow Chemical Company**  
**RN100542711**  
**Docket No. 2021-0089-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 Sabine River Operations, 3055 Farm-to-Market Road 1006, Orange,  
Orange County

**Type of Operation:**

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 30, 2023

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$61,250

**Amount Deferred for Expedited Settlement:** \$7,875

**Total Paid to General Revenue:** \$26,688

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

Payment Plan: N/A

**Supplemental Environmental Project (“SEP”) Conditional Offset:** \$26,687

Name of SEP: Southeast Texas Regional Planning Commission (Third-Party Pre-  
Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014 and January 28, 2021

***Investigation Information***

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

**Complaint Information:** N/A

**Date(s) of Investigation:** October 10, 2020, December 1, 2020, January 25, 2021, and  
September 21, 2021

**Date(s) of NOE(s):** December 3, 2020, January 20, 2021, March 12, 2021, and  
November 18, 2021

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**Docket No. 2021-0089-AIR-E**

***Violation Information***

1. Failed to prevent unauthorized emissions. Specifically, the Respondent released 15,358.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 341085) that occurred on August 22, 2020 and lasted 15 minutes. The emissions event occurred when the incorrect packing was used during the overhaul of an automatic valve that caused a leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9176, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O2001, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

2. Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,892.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 344343) that occurred on October 18, 2020 and lasted 20 minutes. The emissions event occurred due to a missing mechanical plug from an autoclave block, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

3. Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,428.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347122) that occurred on December 4, 2020 and lasted 49 minutes. The emissions event occurred when the C Unit received cold ethylene gas from outside the C Unit Battery limits that caused thermal contractions and the packing leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4. Failed to prevent unauthorized emissions. Specifically, the Respondent released 15,253.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 364400) that occurred on August 6, 2021 and lasted ten minutes. The emissions event occurred due to a leak from the hypercompressor discharge purge valve packing, resulting in the release to the atmosphere. Since the emissions event was not caused

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by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent implemented the following corrective measures:

- a. By September 30, 2020, implemented processes and procedures to ensure that the appropriate job plans are compiled and used for all jobs in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341085;
- b. By December 1, 2020, updated the gas leak response procedures to minimize personnel exposure, audited all autoclave blocks to ensure that they have plugs, and installed cluster alarms for the Control System Gas Detector to help the operators respond to leaks in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344343;
- c. By February 25, 2021, replaced the leaking valve and changed the valve packing to a material with a service temperature rating of -300 degrees Fahrenheit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347122; and
- d. On August 31, 2021, replaced the valve with an upgraded packing design and tightened the eleven valves to the upgraded packing gland torque specification in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364400.

**Technical Requirements:**

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

***Contact Information***

**Executive Summary – Enforcement Matter – Case No. 60159**  
**The Dow Chemical Company**  
**RN100542711**  
**Docket No. 2021-0089-AIR-E**

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Johnnie Wu, Enforcement Division, Enforcement Team 2, MC 219, (512) 239-2524; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

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

**SEP Third-Party Administrator:** Southeast Texas Regional Planning Commission, 2210 Eastex Freeway, Beaumont, Texas 77703

**Respondent:** Dustin Hedges, Senior Responsible Care Director, The Dow Chemical Company, P.O. Box 1089, Orange, Texas 77631-1089

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



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	7-Dec-2020	<b>Screening</b>	10-Dec-2020	<b>EPA Due</b>	
	<b>PCW</b>	7-May-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	The Dow Chemical Company
<b>Reg. Ent. Ref. No.</b>	RN100542711 (PCW No. 1 of 2)
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60159	<b>No. of Violations</b>	3
<b>Docket No.</b>	2021-0089-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$22,500
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	100.0%	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	\$22,500
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Notes

Enhancement for three NOVs with same or similar violations, 13 NOVs with dissimilar violations, six orders containing a denial of liability, and two orders without a denial of liability. Reduction for 17 notices of intent to conduct an audit and eight disclosures of violations.

<b>Culpability</b>	No	0.0%	Enhancement	<b>Subtotal 4</b>	\$0
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$5,625
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<b>Economic Benefit</b>	0.0%	Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$313
Estimated Cost of Compliance	\$34,500

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$39,375
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$39,375
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$39,375
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<b>DEFERRAL</b>	20.0%	Reduction	Adjustment	-\$7,875
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$31,500
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**Screening Date** 10-Dec-2020

**Docket No.** 2021-0089-AIR-E

**PCW**

**Respondent** The Dow Chemical Company

*Policy Revision 4 (April 2014)*

**Case ID No.** 60159

*PCW Revision March 26, 2014*

**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)

**Media** Air

**Enf. Coordinator** Johnnie Wu

### Compliance History Worksheet

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

Component	Number of...	Number	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> )	3	15%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	6	120%
	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	2	50%
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 judgments 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> )	17	-17%
	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> )	8	-16%
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)** 178%

#### >> 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 three NOVs with same or similar violations, 13 NOVs with dissimilar violations, six orders containing a denial of liability, and two orders without a denial of liability. Reduction for 17 notices of intent to conduct an audit and eight disclosures of violations.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 178%

#### >> Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 100%

**Screening Date** 10-Dec-2020 **Docket No.** 2021-0089-AIR-E **PCW**  
**Respondent** The Dow Chemical Company *Policy Revision 4 (April 2014)*  
**Case ID No.** 60159 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number** 1

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9176, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O2001, General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 12, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions. Specifically, the Respondent released 15,358.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 341085) that occurred on August 22, 2020 and lasted 15 minutes. The emissions event occurred when the incorrect packing was used during the overhaul of an automatic valve that caused a leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		X		30.0%
	Potential				

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
				0.0%

**Matrix Notes** Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		

**Notes** The Respondent completed the corrective measures by September 30, 2020, prior to the Notice of Enforcement ("NOE") dated December 3, 2020.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$8

**Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

# Economic Benefit Worksheet

**Respondent** The Dow Chemical Company  
**Case ID No.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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)	\$1,500	22-Aug-2020	30-Sep-2020	0.11	\$8	n/a	\$8

**Notes for DELAYED costs**

Estimated cost to implement processes and procedures to ensure that the appropriate job plans are compiled and used for all jobs in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341085. The Date Required is the date the emissions event occurred and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance** \$1,500

**TOTAL** \$8



**Screening Date** 10-Dec-2020 **Docket No.** 2021-0089-AIR-E **PCW**  
**Respondent** The Dow Chemical Company *Policy Revision 4 (April 2014)*  
**Case ID No.** 60159 *PCW Revision March 26, 2014*  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and Tex. Health & Safety Code § 382.085(b)

**Violation Description**  
 Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,892.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 344343) that occurred on October 18, 2020 and lasted 20 minutes. The emissions event occurred due to a missing mechanical plug from an autoclave block, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		<input type="text" value="30.0%"/>
	Potential				

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
					<input type="text" value="0.0%"/>

**Matrix Notes**  
 Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty**

**Good Faith Efforts to Comply**  Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

**Notes**  
 The Respondent completed the corrective measures by December 1, 2020, prior to the NOE dated January 20, 2021.

**Violation Subtotal**

**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.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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)	\$13,000	18-Oct-2020	1-Dec-2020	0.12	\$78	n/a	\$78

**Notes for DELAYED costs**

Estimated costs to update the gas leak response procedures to minimize personnel exposure (\$1,500), audit all autoclave blocks to ensure that they have plugs (\$1,500), and install cluster alarms for the Control System Gas Detector to help the operators respond to leaks (\$10,000) in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344343. The Date Required is the date the emissions event occurred and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$13,000

**TOTAL** \$78

**Screening Date** 10-Dec-2020  
**Respondent** The Dow Chemical Company  
**Case ID No.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Docket No.** 2021-0089-AIR-E

**PCW**

*Policy Revision 4 (April 2014)*  
*PCW Revision March 26, 2014*

**Violation Number** 3

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions. Specifically, the Respondent released 11,428.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347122) that occurred on December 4, 2020 and lasted 49 minutes. The emissions event occurred when the C Unit received cold ethylene gas from outside the C Unit Battery limits that caused thermal contractions and the packing leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty** \$25,000

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual		x		30.0%
	Potential				

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0.0%

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

Number of Violation Events 1 Number of violation days 1

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

**Violation Base Penalty** \$7,500

One monthly event is recommended.

**Good Faith Efforts to Comply**

25.0%

Reduction \$1,875

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		

Notes The Respondent completed the corrective measures by February 25, 2021, prior to the NOE dated March 12, 2021.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$227

**Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

# Economic Benefit Worksheet

**Respondent** The Dow Chemical Company  
**Case ID No.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 1 of 2)  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

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

### 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)	\$20,000	4-Dec-2020	25-Feb-2021	0.23	\$227	n/a	\$227

**Notes for DELAYED costs**

Estimated cost to replace the leaking valve and change the valve packing to a material with a service temperature rating of -300 degrees Fahrenheit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347122. The Date Required is the date the emissions event occurred and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$20,000

**TOTAL** \$227



# Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

<b>DATES</b>	<b>Assigned</b>	7-Feb-2022	<b>Screening</b>	17-Feb-2022	<b>EPA Due</b>	
	<b>PCW</b>	7-May-2023				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	The Dow Chemical Company
<b>Reg. Ent. Ref. No.</b>	RN100542711 (PCW No. 2 of 2)
<b>Facility/Site Region</b>	10-Beaumont
<b>Major/Minor Source</b>	Major

<b>CASE INFORMATION</b>			
<b>Enf./Case ID No.</b>	60159	<b>No. of Violations</b>	1
<b>Docket No.</b>	2021-0089-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Johnnie Wu
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$12,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>100.0%</b>	Adjustment	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$12,500</b>
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Notes: Enhancement for three NOVs with same or similar violations, 13 NOVs with dissimilar violations, six orders containing a denial of liability, and two orders without a denial of liability. Reduction for 17 notices of intent to conduct an audit and eight disclosures of violations.

<b>Culpability</b>	No	<b>0.0%</b>	Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>-\$3,125</b>
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<b>Economic Benefit</b>	<b>0.0%</b>	Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts: \$68  
 Estimated Cost of Compliance: \$20,000  
 \*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$21,875</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	Adjustment	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$21,875</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$21,875</b>
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<b>DEFERRAL</b>	<b>0.0%</b>	Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes: No deferral for orders in which the Respondent has two or more prior administrative penalty orders as set out in Tex. Water Code § 7.105(b)(2), (b)(4), and (b)(6).

<b>PAYABLE PENALTY</b>	<b>\$21,875</b>
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Screening Date 17-Feb-2022

Docket No. 2021-0089-AIR-E

PCW

Respondent The Dow Chemical Company

Policy Revision 5 (January 28, 2021)

Case ID No. 60159

PCW Revision February 11, 2021

Reg. Ent. Reference No. RN100542711 (PCW No. 2 of 2)

Media Air

Enf. Coordinator Johnnie Wu

### Compliance History Worksheet

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

Component	Number of...	Number	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> )	3	15%
	Other written NOVs	13	26%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	6	120%
	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	2	50%
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 judgments 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> )	17	-17%
	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> )	8	-16%
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) 178%

#### >> 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 three NOVs with same or similar violations, 13 NOVs with dissimilar violations, six orders containing a denial of liability, and two orders without a denial of liability. Reduction for 17 notices of intent to conduct an audit and eight disclosures of violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 178%

#### >> Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

**Screening Date** 17-Feb-2022  
**Respondent** The Dow Chemical Company  
**Case ID No.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 2 of 2)  
**Media** Air  
**Enf. Coordinator** Johnnie Wu

**Docket No.** 2021-0089-AIR-E

**PCW**

*Policy Revision 5 (January 28, 2021)*

*PCW Revision February 11, 2021*

**Violation Number**

**Rule Cite(s)** 30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), New Source Review Permit No. 9176, Special Conditions No. 1, Federal Operating Permit No. O2001, General Terms and Conditions and Special Terms and Conditions No. 12, and Tex. Health & Safety Code § 382.085(b)

**Violation Description** Failed to prevent unauthorized emissions. Specifically, the Respondent released 15,253.00 pounds of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 364400) that occurred on August 6, 2021 and lasted ten minutes. The emissions event occurred due to a leak from the hypercompressor discharge purge valve packing, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 Tex. Admin. Code § 101.222.

**Base Penalty**

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

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input checked="" type="text" value="x"/>	<input type="text"/>	<input type="text" value="50.0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

**>> Programmatic Matrix**

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0.0%"/>

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

**Adjustment**

**Violation Events**

Number of Violation Events  Number of violation days

daily	<input type="text"/>
weekly	<input checked="" type="text" value="x"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

**Violation Base Penalty**

One weekly event is recommended.

**Good Faith Efforts to Comply**

Reduction

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input checked="" type="text" value="x"/>	<input type="text"/>
N/A	<input type="text"/>	<input type="text"/>

Notes: The Respondent completed the corrective measures on August 31, 2021, prior to the Notice of Enforcement dated November 18, 2021.

**Violation Subtotal**

**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.** 60159  
**Reg. Ent. Reference No.** RN100542711 (PCW No. 2 of 2)  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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### 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)	\$20,000	6-Aug-2021	31-Aug-2021	0.07	\$68	n/a	\$68

**Notes for DELAYED costs**

Estimated cost to replace the valve with an upgraded packing design and tighten the eleven valves to the upgraded packing gland torque specification in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364400. The Date Required is the date the emissions event occurred and the Final Date is the date of compliance.

### Avoided Costs

**ANNUALIZE 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				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

Approx. Cost of Compliance \$20,000

**TOTAL** \$68





# Compliance History Report

Compliance History Report for CN600356976, RN100542711, Rating Year 2022 which includes Compliance History (CH) components from September 1, 2017, through August 31, 2022.

<b>Customer, Respondent, or Owner/Operator:</b>	CN600356976, The Dow Chemical Company	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	1.03
<b>Regulated Entity:</b>	RN100542711, DOW CHEMICAL SABINE RIVER OPERATIONS	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	9.75
<b>Complexity Points:</b>	39	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	05 - Chemical Manufacturing				
<b>Location:</b>	3055 FARM-TO-MARKET ROAD 1006, ORANGE, ORANGE COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				

**ID Number(s):**

**AIR OPERATING PERMITS** ACCOUNT NUMBER OC0007J  
**AIR OPERATING PERMITS** PERMIT 1899  
**AIR OPERATING PERMITS** PERMIT 1901  
**AIR OPERATING PERMITS** PERMIT 2055  
**AIR OPERATING PERMITS** PERMIT 2331  
**PUBLIC WATER SYSTEM/SUPPLY** REGISTRATION 1810114  
**AIR NEW SOURCE PERMITS** PERMIT 40496  
**AIR NEW SOURCE PERMITS** PERMIT 914  
**AIR NEW SOURCE PERMITS** REGISTRATION 1423  
**AIR NEW SOURCE PERMITS** REGISTRATION 1423B  
**AIR NEW SOURCE PERMITS** REGISTRATION 2004  
**AIR NEW SOURCE PERMITS** REGISTRATION 2490  
**AIR NEW SOURCE PERMITS** REGISTRATION 7021  
**AIR NEW SOURCE PERMITS** REGISTRATION 10447  
**AIR NEW SOURCE PERMITS** REGISTRATION 12967  
**AIR NEW SOURCE PERMITS** PERMIT 17157  
**AIR NEW SOURCE PERMITS** PERMIT 21236  
**AIR NEW SOURCE PERMITS** REGISTRATION 23646  
**AIR NEW SOURCE PERMITS** REGISTRATION 25167  
**AIR NEW SOURCE PERMITS** REGISTRATION 26325  
**AIR NEW SOURCE PERMITS** REGISTRATION 28148  
**AIR NEW SOURCE PERMITS** REGISTRATION 36046  
**AIR NEW SOURCE PERMITS** REGISTRATION 41263  
**AIR NEW SOURCE PERMITS** REGISTRATION 44528  
**AIR NEW SOURCE PERMITS** REGISTRATION 47671  
**AIR NEW SOURCE PERMITS** EPA PERMIT PSDTX929  
**AIR NEW SOURCE PERMITS** REGISTRATION 170810  
**AIR NEW SOURCE PERMITS** AFS NUM 4836100002  
**AIR NEW SOURCE PERMITS** REGISTRATION 70650  
**AIR NEW SOURCE PERMITS** REGISTRATION 71338  
**AIR NEW SOURCE PERMITS** REGISTRATION 53324  
**AIR NEW SOURCE PERMITS** REGISTRATION 72443  
**AIR NEW SOURCE PERMITS** REGISTRATION 56055  
**AIR NEW SOURCE PERMITS** REGISTRATION 73779  
**AIR NEW SOURCE PERMITS** REGISTRATION 82031  
**AIR NEW SOURCE PERMITS** REGISTRATION 101137  
**AIR NEW SOURCE PERMITS** REGISTRATION 104097  
**AIR NEW SOURCE PERMITS** REGISTRATION 104088  
**AIR NEW SOURCE PERMITS** REGISTRATION 104059  
**AIR NEW SOURCE PERMITS** REGISTRATION 104091

**AIR OPERATING PERMITS** PERMIT 1895  
**AIR OPERATING PERMITS** PERMIT 1900  
**AIR OPERATING PERMITS** PERMIT 2001  
**AIR OPERATING PERMITS** PERMIT 2074  
**AIR OPERATING PERMITS** PERMIT 1882  
**AIR NEW SOURCE PERMITS** REGISTRATION 72030  
**AIR NEW SOURCE PERMITS** PERMIT 9629  
**AIR NEW SOURCE PERMITS** REGISTRATION 914A  
**AIR NEW SOURCE PERMITS** REGISTRATION 1423A  
**AIR NEW SOURCE PERMITS** REGISTRATION 1423C  
**AIR NEW SOURCE PERMITS** REGISTRATION 2116  
**AIR NEW SOURCE PERMITS** REGISTRATION 5745  
**AIR NEW SOURCE PERMITS** PERMIT 9176  
**AIR NEW SOURCE PERMITS** REGISTRATION 11434  
**AIR NEW SOURCE PERMITS** REGISTRATION 16327  
**AIR NEW SOURCE PERMITS** PERMIT 20204  
**AIR NEW SOURCE PERMITS** REGISTRATION 22977  
**AIR NEW SOURCE PERMITS** REGISTRATION 24252  
**AIR NEW SOURCE PERMITS** REGISTRATION 26158  
**AIR NEW SOURCE PERMITS** REGISTRATION 26410  
**AIR NEW SOURCE PERMITS** REGISTRATION 32733  
**AIR NEW SOURCE PERMITS** REGISTRATION 37488  
**AIR NEW SOURCE PERMITS** REGISTRATION 42054  
**AIR NEW SOURCE PERMITS** REGISTRATION 46790  
**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER OC0007J  
**AIR NEW SOURCE PERMITS** REGISTRATION 75999  
**AIR NEW SOURCE PERMITS** PERMIT 49076  
**AIR NEW SOURCE PERMITS** REGISTRATION 70647  
**AIR NEW SOURCE PERMITS** REGISTRATION 71054  
**AIR NEW SOURCE PERMITS** REGISTRATION 56781  
**AIR NEW SOURCE PERMITS** REGISTRATION 71829  
**AIR NEW SOURCE PERMITS** REGISTRATION 53572  
**AIR NEW SOURCE PERMITS** REGISTRATION 73921  
**AIR NEW SOURCE PERMITS** REGISTRATION 76955  
**AIR NEW SOURCE PERMITS** REGISTRATION 91404  
**AIR NEW SOURCE PERMITS** REGISTRATION 104095  
**AIR NEW SOURCE PERMITS** REGISTRATION 104083  
**AIR NEW SOURCE PERMITS** REGISTRATION 104054  
**AIR NEW SOURCE PERMITS** REGISTRATION 104086  
**AIR NEW SOURCE PERMITS** REGISTRATION 104048

**AIR NEW SOURCE PERMITS** REGISTRATION 104052  
**AIR NEW SOURCE PERMITS** REGISTRATION 104090  
**AIR NEW SOURCE PERMITS** REGISTRATION 132093  
**AIR NEW SOURCE PERMITS** REGISTRATION 132769  
**AIR NEW SOURCE PERMITS** REGISTRATION 133043  
**AIR NEW SOURCE PERMITS** REGISTRATION 51941  
**AIR NEW SOURCE PERMITS** REGISTRATION 136327  
**AIR NEW SOURCE PERMITS** REGISTRATION 134473  
**AIR NEW SOURCE PERMITS** REGISTRATION 136608  
**AIR NEW SOURCE PERMITS** REGISTRATION 136803  
**AIR NEW SOURCE PERMITS** REGISTRATION 111631  
**AIR NEW SOURCE PERMITS** REGISTRATION 162942  
**AIR NEW SOURCE PERMITS** REGISTRATION 165390  
**AIR NEW SOURCE PERMITS** REGISTRATION 163827  
**AIR NEW SOURCE PERMITS** REGISTRATION 144517  
**AIR NEW SOURCE PERMITS** REGISTRATION 146064  
**AIR NEW SOURCE PERMITS** REGISTRATION 145657  
**AIR NEW SOURCE PERMITS** REGISTRATION 149267  
**AIR NEW SOURCE PERMITS** REGISTRATION 147752  
**AIR NEW SOURCE PERMITS** REGISTRATION 144453  
**AIR NEW SOURCE PERMITS** REGISTRATION 149728  
**AIR NEW SOURCE PERMITS** REGISTRATION 150109  
**AIR NEW SOURCE PERMITS** REGISTRATION 160038

**IHW CORRECTIVE ACTION** SOLID WASTE REGISTRATION # (SWR) 30019

**WASTEWATER** PERMIT WQ0000475000

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER OC0007J

**INDUSTRIAL AND HAZARDOUS WASTE** EPA ID TXD008079642

**INDUSTRIAL AND HAZARDOUS WASTE** PERMIT 50230

**AIR NEW SOURCE PERMITS** REGISTRATION 104050  
**AIR NEW SOURCE PERMITS** REGISTRATION 104057  
**AIR NEW SOURCE PERMITS** REGISTRATION 139683  
**AIR NEW SOURCE PERMITS** REGISTRATION 141153  
**AIR NEW SOURCE PERMITS** REGISTRATION 114657  
**AIR NEW SOURCE PERMITS** REGISTRATION 137218  
**AIR NEW SOURCE PERMITS** REGISTRATION 121405  
**AIR NEW SOURCE PERMITS** REGISTRATION 133737  
**AIR NEW SOURCE PERMITS** REGISTRATION 129905  
**AIR NEW SOURCE PERMITS** REGISTRATION 133042  
**AIR NEW SOURCE PERMITS** REGISTRATION 154818  
**AIR NEW SOURCE PERMITS** REGISTRATION 166181  
**AIR NEW SOURCE PERMITS** REGISTRATION 168189  
**AIR NEW SOURCE PERMITS** REGISTRATION 162989  
**AIR NEW SOURCE PERMITS** REGISTRATION 142135  
**AIR NEW SOURCE PERMITS** REGISTRATION 143037  
**AIR NEW SOURCE PERMITS** REGISTRATION 148316  
**AIR NEW SOURCE PERMITS** REGISTRATION 146933  
**AIR NEW SOURCE PERMITS** REGISTRATION 142133  
**AIR NEW SOURCE PERMITS** REGISTRATION 146956  
**AIR NEW SOURCE PERMITS** REGISTRATION 146154  
**AIR NEW SOURCE PERMITS** REGISTRATION 160082  
**AIR NEW SOURCE PERMITS** REGISTRATION 160920  
**STORMWATER** PERMIT TXR05FG09

**WASTEWATER** EPA ID TX0006327

**POLLUTION PREVENTION PLANNING** ID NUMBER P00193

**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE REGISTRATION # (SWR) 30019

**Compliance History Period:** September 01, 2017 to August 31, 2022      **Rating Year:** 2022      **Rating Date:** 09/01/2022

**Date Compliance History Report Prepared:** February 03, 2023

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** February 03, 2018 to February 03, 2023

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

**Name:** Johnnie Wu

**Phone:** (512) 239-2524

### **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?      YES
- 3) Who is the current owner/operator?      E. I. du Pont de Nemours and Company OWNER OPERATOR since 1/1/1800  
Turner Construction Company OPERATOR since 3/12/2012  
Heritage Thermal of Texas, LLC OWNER OPERATOR since 5/4/2020  
Performance Materials NA, Inc. OWNER OPERATOR since 10/31/2018  
The Dow Chemical Company OWNER OPERATOR since 11/1/2021
- 4) Who was/were the prior owner(s)/operator(s)?      SRW Cogeneration Limited Partnership, OWNER OPERATOR, 1/1/1800 to 1/31/2019

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

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

- 1      Effective Date: 09/26/2018      ADMINORDER 2017-0705-IHW-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)  
30 TAC Chapter 335, SubChapter F 335.152(a)(13)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT O 264.344(a)

Rqmt Prov: PERMIT 50230, Provision II.C.1.k. PERMIT  
PERMIT 50230, Provision II.C.1.i PERMIT  
PERMIT 50230, Provision II.C.2.i PERMIT  
PERMIT 50230, Provision IV.B.1 PERMIT

Description: Caused, suffered, allowed, or permitted its wastes to be disposed of at an unauthorized facility.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.10(a)(1)  
30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT B 262.20(a)(1)

Rqmt Prov: PERMIT 50230, Provision II.C.2.a PERMIT  
PERMIT 50230, Provision II.C.1.i. PERMIT

Description: Failure to properly complete a hazardous waste manifest.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(1)  
30 TAC Chapter 335, SubChapter E 335.112(a)(8)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT I 265.174

Rqmt Prov: PERMIT 50230, Provision II.C.2.g. PERMIT

Description: Failure to conduct weekly inspections of all CSAs looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter E 335.112(a)(1)  
30 TAC Chapter 335, SubChapter F 335.152(a)(7)  
40 CFR Chapter 264, SubChapter I, PT 264, SubPT B 264.15(d)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)  
40 CFR Chapter 265, SubChapter I, PT 265, SubPT J 265.195(c)

Rqmt Prov: PERMIT 50230, Provision II.C.1.k. PERMIT  
PERMIT 50230, Provision II.C.2.a PERMIT  
PERMIT 50230, Provision II.C.2.g. PERMIT

Description: Failure to properly complete all inspection logs.

2 Effective Date: 10/08/2018 ADMINORDER 2018-0037-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: HAA5 LRAA MCL 4Q2017 - During the 4th quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.072 mg/L at DERA: 2601 Irvin St, Orange (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: HAA5 LRAA MCL 3Q2017 - During the 3rd quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.074 mg/L at DERA: 2601 Irvin St, Orange (DBP2-01).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)  
5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: HAA5 LRAA MCL 2Q2017 - During the 2nd quarter of 2017 the system violated the maximum contaminant level for haloacetic acids with a LRAA of 0.074 mg/L at DERA: 2601 Irvin St, Orange (DBP2-01).

3 Effective Date: 03/29/2019 ADMINORDER 2018-0317-AIR-E (1660 Order-Agreed Order With Denial)

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP  
Special Condition 1 PERMIT  
Special Terms and Conditions 13 OP

Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 18,389 pounds ("lbs") of ethylene and 833 lbs of propane from the Unit G Rupture Disc and Dump Stack, and 20 lbs of methanol, 18 lbs of vinyl acetate, 15 lbs of isopropyl alcohol, 3.5 lbs of isobutyl acetate, 3.3 lbs of methacrylic acid, 0.52 lb of mineral spirits, and 0.35 lb of ethylene from the Unit D Small Source Plenum Vent, during an avoidable emissions event (Incident No. 271854) that began on November 4, 201

- 4 Effective Date: 07/06/2020 ADMINORDER 2019-0503-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(a)(1)(B)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: General Terms and Condition OP  
 Special Terms and Condition 2F OP  
 Description: Failed to submit an initial notification for a reportable emissions event no later than 24 hours after the discovery of an emissions event. Specifically, the initial notification for Incident No. 302018 was due by January 31, 2019 at 1:15 p.m., but was not submitted until January 31, 2019 at 5:04 p.m.  
 Classification: Major  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: General Terms and Condition OP  
 Special Conditions 1 PERMIT  
 Special Terms and Condition 13 OP  
 Description: Failed to prevent unauthorized emissions. Specifically, the Respondent released 781 pounds of volatile organic compounds as fugitive emissions, during an emissions event (Incident No. 302018) that began on January 30, 2019 and lasted 34 hours. The emissions event occurred due to the overfilling of the decanter tank with methyl acrylate, which was drained into a secondary containment that had a large surface area exposed to high winds, resulting in the release to the atmosphere. Since the Respon
- 5 Effective Date: 11/20/2020 ADMINORDER 2019-0878-AIR-E (1660 Order-Agreed Order With Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: General Terms and Conditions OP  
 Special Condition 1 PERMIT  
 Special Term and Condition 13 OP  
 Description: Failure to prevent unauthorized emissions.
- 6 Effective Date: 04/06/2021 ADMINORDER 2019-1697-AIR-E (Findings Order-Agreed Order Without Denial)  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: General Terms and Conditions OP  
 Special Condition 1 PERMIT  
 Special Terms and Condition 13 OP  
 Description: Failure to prevent unauthorized emissions to the atmosphere during Incident 316626.  
 Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Rqmt Prov: General Terms and Conditions OP  
 Special Condition 1 PERMIT  
 Special Term and Condition 13 OP  
 Description: Failure to prevent unauthorized emissions to the atmosphere during Incident 320164.

See addendum for information regarding federal actions.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	February 26, 2018	(1466769)
Item 2	February 27, 2018	(1466771)

Item 3	March 19, 2018	(1490443)
Item 4	April 24, 2018	(1493680)
Item 5	May 23, 2018	(1500598)
Item 6	June 20, 2018	(1484948)
Item 7	June 21, 2018	(1507715)
Item 8	June 25, 2018	(1485029)
Item 9	June 29, 2018	(1485522)
Item 10	July 05, 2018	(1486425)
Item 11	July 23, 2018	(1514033)
Item 12	August 10, 2018	(1506415)
Item 13	August 23, 2018	(1520094)
Item 14	August 30, 2018	(1511418)
Item 15	September 10, 2018	(1485657)
Item 16	September 11, 2018	(1484956)
Item 17	September 17, 2018	(1506796)
Item 18	September 18, 2018	(1527259)
Item 19	October 08, 2018	(1512937)
Item 20	October 23, 2018	(1533617)
Item 21	November 05, 2018	(1525856)
Item 22	November 15, 2018	(1526766)
Item 23	December 17, 2018	(1439446)
Item 24	December 19, 2018	(1545236)
Item 25	December 21, 2018	(1531046)
Item 26	January 08, 2019	(1532696)
Item 27	January 09, 2019	(1530932)
Item 28	January 24, 2019	(1559683)
Item 29	February 08, 2019	(1544613)
Item 30	February 20, 2019	(1559681)
Item 31	February 22, 2019	(1549737)
Item 32	March 18, 2019	(1549537)
Item 33	March 19, 2019	(1559682)
Item 34	March 28, 2019	(1550866)
Item 35	April 22, 2019	(1571833)
Item 36	May 20, 2019	(1583275)
Item 37	May 22, 2019	(1558765)
Item 38	June 19, 2019	(1583276)
Item 39	July 24, 2019	(1593146)
Item 40	August 20, 2019	(1589864)
Item 41	August 21, 2019	(1590094)
Item 42	August 28, 2019	(1591206)
Item 43	September 12, 2019	(1596543)
Item 44	September 24, 2019	(1606397)
Item 45	September 25, 2019	(1597057)
Item 46	October 11, 2019	(1613243)
Item 47	November 04, 2019	(1604885)
Item 48	November 15, 2019	(1619057)
Item 49	December 19, 2019	(1617426)
Item 50	December 30, 2019	(1606152)
Item 51	February 10, 2020	(1625458)
Item 52	February 12, 2020	(1625720)
Item 53	February 20, 2020	(1640669)
Item 54	March 24, 2020	(1647189)
Item 55	April 10, 2020	(1633580)
Item 56	April 24, 2020	(1653525)
Item 57	April 28, 2020	(1645395)
Item 58	May 22, 2020	(1660112)
Item 59	June 10, 2020	(1666616)
Item 60	June 25, 2020	(1651829)
Item 61	June 29, 2020	(1657425)
Item 62	July 07, 2020	(1658368)
Item 63	July 20, 2020	(1673573)
Item 64	July 29, 2020	(1664847)

Item 65	August 04, 2020	(1665903)
Item 66	August 06, 2020	(1666062)
Item 67	August 07, 2020	(1665817)
Item 68	August 18, 2020	(1680349)
Item 69	September 18, 2020	(1686917)
Item 70	November 13, 2020	(1712482)
Item 71	November 19, 2020	(1690507)
Item 72	November 20, 2020	(1690466)
Item 73	December 10, 2020	(1712483)
Item 74	December 18, 2020	(1678495)
Item 75	January 11, 2021	(1698919)
Item 76	January 18, 2021	(1712484)
Item 77	February 22, 2021	(1725537)
Item 78	February 27, 2021	(1702347)
Item 79	March 12, 2021	(1725538)
Item 80	April 14, 2021	(1725539)
Item 81	May 05, 2021	(1702362)
Item 82	May 14, 2021	(1708035)
Item 83	May 18, 2021	(1740074)
Item 84	June 10, 2021	(1725056)
Item 85	June 14, 2021	(1724663)
Item 86	July 19, 2021	(1751713)
Item 87	August 12, 2021	(1757177)
Item 88	August 26, 2021	(1751073)
Item 89	September 12, 2021	(1766257)
Item 90	October 11, 2021	(1764992)
Item 91	October 13, 2021	(1763188)
Item 92	October 18, 2021	(1776720)
Item 93	October 21, 2021	(1764526)
Item 94	November 09, 2021	(1783629)
Item 95	December 08, 2021	(1790655)
Item 96	January 20, 2022	(1798449)
Item 97	February 21, 2022	(1806323)
Item 98	March 17, 2022	(1813390)
Item 99	May 09, 2022	(1810457)
Item 100	May 23, 2022	(1828800)
Item 101	June 29, 2022	(1825220)
Item 102	August 22, 2022	(1834387)
Item 103	November 10, 2022	(1853673)
Item 104	November 22, 2022	(1869499)
Item 105	December 12, 2022	(1862014)
Item 106	January 02, 2023	(1862065)
Item 107	January 09, 2023	(1865924)

**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.

- 1 Date: 02/07/2022 (1774743)
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Terms and Conditions 2F OP
- Description: Failure to create a final record of an emissions event within two weeks after the end of the event.
- Self Report? NO Classification: Moderate
- Citation: 30 TAC Chapter 113, SubChapter C 113.1090  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT ZZZZ 63.6602  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Conditions 4c OP  
Special Terms and Condition 8 OP

- Description: Failure to maintain the fuel flow at or above the minimum limit.
- 2 Date: 03/25/2022 (1773210)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 Special Terms and Conditions 2F OP  
 Description: Failure to create a final record of an emissions event within two weeks after the end of the event.
- 3 Date: 03/29/2022 (1679505)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 General Term and Condition PERMIT  
 Special Condition 5(C) PERMIT  
 Special Terms and Conditions 7 OP  
 Description: Failure to maintain accurate records of pressure drop for EPN 534-BAG-1 . EIC B3, Minor 3C  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to report all deviations. EIC B3, Minor 3C
- 4 Date: 03/31/2022 (1819961)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 5 Date: 04/22/2022 (1809937)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(h)  
 Description: Failure by DuPont Sabine River Works to accurately complete the Surface Water Monthly Operating Reports (SWMORs).  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(l)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to flush all dead-end mains on a monthly basis.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(A)(i)(II)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to maintain records of the amount of chemicals used daily.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)(B)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to operate the plant as stated in the approved CT Study.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to perform maintenance and housekeeping practices used by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to perform maintenance and housekeeping practices used by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(2)  
 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to maintain plant equipment tight against leakage.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(d)(13)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to identify all

plant piping and chemical lines.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(f)(1)(E)(ii)(I)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to provide adequate containment facilities for all liquid chemical storage tanks.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.111(d)(2)(B)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to monitor the Combined Filter Effluent (CFE) at the proper locations.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to perform maintenance and housekeeping practices used by a public water system to ensure the good working condition and general appearance of the system's facilities and equipment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(b)(5)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to maintain plant equipment tight against leakage.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)  
 Description: Failure by the Dow Chemical Company - Sabine River Operations to have all well openings to the atmosphere covered with a 16-mesh or finer, corrosion-resistant screening material or an acceptable equivalent.

6 Date: 05/31/2022 (1835092)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

7 Date: 06/30/2022 (1842297)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter

8 Date: 07/29/2022 (1818343)  
 Self Report? NO Classification: Moderate  
 Citation: PC, No. 2(g), Pg. 8 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to prevent the unauthorized discharge of wastewater or any other waste into or adjacent to water in the state at any location not permitted as an outfall.  
 Self Report? NO Classification: Minor  
 Citation: OpR, No. 1, Pg. 10 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. (stp)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances shall be maintained in a watertight condition and be free of excessive solids.  
 Self Report? NO Classification: Minor  
 Citation: M&RR, No. 2(a), Pg. 5 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to comply with test procedures specified in 30 TAC 319.11- 319.12. (staff gage)  
 Self Report? NO Classification: Minor  
 Citation: M&RR, No. 5, Pg. 5 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to comply with test procedures specified in 30 TAC 319.11- 319.12. (flow meter cal)  
 Self Report? NO Classification: Minor  
 Citation: M&RR, No. 2(a), Pg. 5 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to comply with test procedures for the analysis of pollutants specified in 30 Texas Administrative Code 319.11-319.12.  
 Self Report? NO Classification: Minor  
 Citation: M&RR, No. 2(a), Pg. 5 PERMIT  
 Description: Failure by Dow Chemical Company Sabine River Operations (Dow) to comply with test procedures for the analysis of pollutants specified in 30 Texas Administrative Code 319.11-319.12.



9 Date: 07/31/2022 (1848430)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

10 Date: 08/08/2022 (1832729)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 4C PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to prevent visible emission from the Ethylene Flare.  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 1 PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to maintain authorized ammonia (NH3) and Nitrogen Oxide (NOx) pounds  
per hour (lbs/hr) limits for EPN PK-12.  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 1 PERMIT  
Special Condition 17B PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to maintain authorized NH3 and NOx emission rate limits for EPN PK-12.  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 1 PERMIT  
Special Condition 17A PERMIT  
Special Condition 17C PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to maintain the NOx emission rate limits for EPNs PK-1, PK-2, PK-4 and  
PK-14  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 1 PERMIT  
Special Condition 17A PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to maintain the CO emission rate limit for EPN PK-11.  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 115, SubChapter B 115.121(a)(2)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Terms and Conditions 13 OP  
Description: Failure to prevent the carbon canisters volatile organic compound (VOC) limit  
from exceeding 50 parts per million (ppm).  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 9C(2) PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to conduct weekly cooling tower sampling for conductivity and total  
dissolved solids.  
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 35 PERMIT  
Special Terms and Conditions 15 OP  
Description: Failure to use the Surge Tank Carbon Canister as a backup for the Ethylene Flare for a maximum of 30 days per year.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 10E PERMIT  
Special Terms and Conditions 15 OP  
Special Terms and Conditions 1A OP

Description: Failure to prevent an open-ended line.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 11H PERMIT  
Special Terms and Conditions 15 OP

Description: Failure to repair components on Delay of Repair.

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Terms and Conditions 1A OP

Description: Failure to conduct daily observation of the Ethylene Flare.

11

Date: 08/31/2022 (1832251)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Term and Condition 10 OP

Description: Failure to conduct quarterly visible emission observations.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.354(4)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Term and Condition 1(A) OP

Description: Failure to monitor number 6 recycle compressor suction relief valve within 24 hours of release.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(2)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(5)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Condition 7(B) OP  
Special Term and Condition 11 OP

Description: Failure to operate the CDG flare with a constant pilot.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)  
General Terms and Conditions OP  
Special Term and Condition 2F OP

Description: Failure to create a final record for emissions events within two weeks after the end of the event.

12

Date: 08/31/2022 (1856228)

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

- 13 Date: 09/30/2022 (1862585)  
 Self Report? YES Classification: Moderate  
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
 30 TAC Chapter 305, SubChapter F 305.125(1)  
 Description: Failure to meet the limit for one or more permit parameter
- 14 Date: 11/18/2022 (1854161)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(1)(A)  
 30 TAC Chapter 122, SubChapter B 122.165(a)(8)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to certify Permit Compliance Certification and deviation report.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to report all deviations.
- 15 Date: 12/09/2022 (1854088)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to report all deviations.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Special Condition 2(F) OP  
 Description: Failure to submit final record of emission event within two weeks after the end of the emission event.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(1)(A)  
 30 TAC Chapter 122, SubChapter B 122.165(a)(8)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Description: Failure to include a signed certification of accuracy and completeness.
- 16 Date: 01/31/2023 (1867875)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(1)(A)  
 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Special Condition 5(A) PERMIT  
 Special Terms and Conditions PERMIT  
 Description: Failure to maintain opacity records.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THSC Chapter 382 382.085(b)  
 General Terms and Conditions OP  
 Special Condition 5(C) PERMIT  
 Description: Failure to monitor equipment.

**F. Environmental audits:**

Notice of Intent Date: 05/28/2019 (1571727)

Disclosure Date: 08/28/2019

Viol. Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(a)(4)

Description: Water distribution lines exist at the facility greater than 24 inches above ground without a TCEQ approved exception to this requirement.

Viol. Classification: Minor

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

Rqmt Prov: PERMIT SC 5.D.  
OP ST & C 5

Description: Records are not available at the CSD plant for the differential pressure across the following baghouses: 534 Packaging Baghouse, 8189 #1 Surlyn Red Bag Filter, 8189 #2 Surlyn Green Bag Filter, 8189 Hopper Truck Dust Collection Bag Filter.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.982(b)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT SS 63.987(b)

Rqmt Prov: OP ST&C 1.F.

Description: A Flare Compliance Assessment or Flare Performance Test was not conducted for the Ethylene plant flare (Flare CB-801) to demonstrate compliance with the Ethylene Maximum Achievable Control Technology (MACT) rule.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UU 63.1033(b)

Rqmt Prov: OP ST&C 1.F.  
OP ST&C 8

Description: Three open-ended lines were discovered in the process area.

Viol. Classification: Minor

Citation: 40 CFR Chapter 268, SubChapter I, PT 268, SubPT A 268.7

Description: The hazardous waste land disposal restriction notification form does not include the manifest number as required.

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.356(2)(D)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT UU 63.1023(a)(1)(iii)

Description: Method 21 monitoring equipment span points were not calibrated using the appropriate concentrations.

Viol. Classification: Minor

Citation: 40 CFR Chapter 265, SubChapter I, PT 265, SubPT B 265.15(d)

Description: Hazardous waste area inspection documents do not include a section for deficiencies or corrective actions.

Viol. Classification: Minor

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.17(a)(5)(i)(A)

Description: Hazardous waste tanks are not labeled with the words "Hazardous Waste" as required.

Viol. Classification: Minor

Citation: 30 TAC Chapter 335, SubChapter A 335.4

Description: Hazardous waste was observed on equipment near the wax drum area (NOR 231) and tank (NOR 230).

Viol. Classification: Minor

Citation: 40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.17(a)(1)(iv)(A)  
40 CFR Chapter 262, SubChapter I, PT 262, SubPT A 262.17(a)(5)(i)

Description: Hazardous waste containers were observed without labels, without a start of accumulation date, and not properly closed.

Viol. Classification: Minor

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

Rqmt Prov: PERMIT SC 4.A.  
OP ST&C 10

Description: The operating temperature for the Thermal Abater was intermittently below the minimum operating temperature established during the most recent stack test.

Viol. Classification: Minor

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

Rqmt Prov: OP ST&C 3.A.(iv)

Description: Quarterly visible emissions observations are not being performed on the Thermal Abater.

Viol. Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(6)(i)(A)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2520(d)

Rqmt Prov: OP ST&C 1.E.  
OP ST&C 6  
OP ST&C 8

Description: The MON NOCS contains errors including the flare assessment/performance test was not submitted and errors in equipment and wastewater applicability.

Disclosure Date: 02/24/2020

Viol. Classification: Minor

Citation: 30 TAC Chapter 307 307.4(b)

30 TAC Chapter 307 307.4(d)

Rqmt Prov: PERMIT Part III, Sect. A.(3)

PERMIT Part III, Sect. A.(4)

PERMIT Part III, Sect. E.(2)(b)

Description: A creosote treated utility pole and oil sheen was observed in the center of the Outfall 002 ditch at the outfall discharge location.

Viol. Classification: Minor

Citation: 30 TAC Chapter 307 307.4(b)

30 TAC Chapter 307 307.4(d)

Rqmt Prov: PERMIT Part III, Sect E. (2)(b)

PERMIT Part III, Sect. A(3)

PERMIT Part III, Sect. A. (4)

PERMIT Part III, Sect. E.(2)(b)

Description: Heavy erosion was observed around and on the culvert at Outfall 005.

Disclosure Date: 08/25/2020

Viol. Classification: Minor

Citation: 30 TAC Chapter 115, SubChapter D 115.352(2)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT UU 63.1024(a)

Rqmt Prov: PERMIT SC 3H

PERMIT SC 5H

Description: For fugitive leaks, follow-up monitoring was not completed within the required timeframe after a first repair attempt.

Notice of Intent Date: 02/24/2020 (1637676)

Disclosure Date: 08/26/2020

Viol. Classification: Minor

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

Rqmt Prov: OP ST & C 3

Description: The plant was missing the second quarter opacity observation records.

Viol. Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT SC 8

OP ST & C 5

Description: The limit on simultaneous hopper usage in B165 is unachievable.

Notice of Intent Date: 03/20/2020 (1640110)

Disclosure Date: 02/25/2021

Viol. Classification: Minor

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT SC 10

OP ST & C 13

Description: The Flame Ionization Detector on the vent stream to the RTO is not providing accurate data

Notice of Intent Date: 05/08/2020 (1652641)

Disclosure Date: 03/24/2021

Viol. Classification: Minor

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)

30 TAC Chapter 116, SubChapter B 116.115(c)

30 TAC Chapter 122, SubChapter B 122.143(4)

40 CFR Chapter 63, SubChapter C, PT 63, SubPT A 63.11(b)(4)

Rqmt Prov: PERMIT SC ;7.C.

OP STC 1, 8, and 13

Description: Intermittent visible emissions on COG Flare (PL-22) while the plant implements and tunes control systems for future NHVcz parameter as required by emerging flare requirements.

Notice of Intent Date: 10/04/2020 (1679562)

No DOV Associated

Notice of Intent Date: 11/19/2020 (1708587)

Disclosure Date: 02/25/2021

Viol. Classification: Moderate

Citation: 30 TAC Chapter 113, SubChapter C 113.890  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Chapter 63, SubChapter C, PT 63, SubPT FFFF 63.2475  
Rqmt Prov: PERMIT Gen. Cond 1, SC, 1, 5.B., and 8  
OP ST & C 1.E. and 13

Description: Emission controls to East and West Fume Abators (EPNs PL-10 and PL-12} at 82085 {FIN PL7W) are not in operation.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: OP GT and C 13  
PERMIT GVC1 and SC 2

Description: Vapor equalization system at 1087 (FIN PL7V} not in use.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: PERMIT GC 1 and SC 1  
OP ST and C 13

Description: Exceeded permitted throughputs on transfer racks at 82085 and 81087.

Notice of Intent Date: 01/15/2021 (1706985)  
No DOV Associated

Notice of Intent Date: 01/15/2021 (1706987)  
No DOV Associated

Notice of Intent Date: 01/15/2021 (1706992)  
No DOV Associated

Notice of Intent Date: 06/30/2021 (1749325)  
Disclosure Date: 08/26/2021

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: PERMIT SC 5B and 5C  
OP ST&C 15

Description: Failure to conduct and record inspections of control device bypass valves.

Disclosure Date: 12/23/2021

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: PERMIT SC 6.E.  
OP ST&C 15

Description: Failure to maintain records of stored material when LAD is stored in the HAD tank and HAD stored in the LAD tank.

Notice of Intent Date: 06/30/2021 (1749326)  
Disclosure Date: 12/23/2021

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115  
30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: PERMIT SC 13.B  
OP ST&C 16

Description: Failure to maintain monthly tank records.

Viol. Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
Rqmt Prov: PERMIT SC 15  
OP ST&C 16

Description: Failure to maintain monthly VOC records for railcar unloading.

Notice of Intent Date: 05/19/2022 (1819257)  
Disclosure Date: 11/28/2022

Viol. Classification: Moderate

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

30 TAC Chapter 122, SubChapter B 122.143(4)

Rqmt Prov: PERMIT SC 4.B.

OP ST&C 10

Description: Failure to maintain a barge dock thermal abater temperature calibration annual record for 2020.

Notice of Intent Date: 06/24/2022 (1825896)

No DOV Associated

Notice of Intent Date: 07/29/2022 (1839896)

No DOV Associated

Notice of Intent Date: 08/26/2022 (1841964)

No DOV Associated

Notice of Intent Date: 09/30/2022 (1852756)

No DOV Associated

Notice of Intent Date: 10/21/2022 (1855391)

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

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## *Addendum to Compliance History Federal Enforcement Actions*

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**Reg Entity Name:** SABINE RIVER OPERATIONS

**Reg Entity Add:** FM 1006

**Reg Entity City:** ORANGE

**Reg Entity No:** RN100542711

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**EPA Case No:** 06-2010-1100

**Order Issue Date (yyyymmdd):** 20200924

**Case Result:** Final Order With Penalty

**Statute:** CAA

**Sect of Statute:** 111

**Classification:** Minor

**Program:** National Emission Stand

**Citation:**

**Violation Type:** Record Keeping Violations

**Cite Sect:**

**Cite Part:**

**Enforcement Action:** Consent Decree or Court Order Resolving a Civil

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**EPA Case No:** 06-2011-0955

**Order Issue Date (yyyymmdd):** 20220128

**Case Result:** Final Order With Penalty

**Statute:** CAA

**Sect of Statute:** 112

**Classification:** Moderate

**Program:** National Emission Stand

**Citation:**

**Violation Type:** Work Practice Standards

**Cite Sect:**

**Cite Part:**

**Enforcement Action:** Consent Decree or Court Order Resolving a Civil

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
THE DOW CHEMICAL COMPANY  
RN100542711

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2021-0089-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 (the "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 a chemical manufacturing plant located at 3055 Farm-to-Market Road 1006 in Orange, Orange County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$61,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$26,688 of the penalty and \$7,875 of the penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms and conditions contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.

Pursuant to TEX. WATER CODE § 7.067, \$26,687 of the penalty shall be conditionally offset by the Respondent's timely and satisfactory completion of a Supplemental Environmental Project ("SEP") as defined in the attached SEP Agreement ("Attachment A", incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the penalty shall be discharged upon full compliance with all the terms

and conditions of this Order, which includes the timely and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

5. 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). 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.
6. 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 Order.
7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Plant:
  - a. By September 30, 2020, implemented processes and procedures to ensure that the appropriate job plans are compiled and used for all jobs in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 341085;
  - b. By December 1, 2020, updated the gas leak response procedures to minimize personnel exposure, audited all autoclave blocks to ensure that they have plugs, and installed cluster alarms for the Control System Gas Detector to help the operators respond to leaks in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 344343;
  - c. By February 25, 2021, replaced the leaking valve and changed the valve packing to a material with a service temperature rating of -300 degrees Fahrenheit in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 347122; and
  - d. On August 31, 2021, replaced the valve with an upgraded packing design and tightened the eleven valves to the upgraded packing gland torque specification in order to prevent the recurrence of emissions events due to the same or similar causes as Incident No. 364400.

## II. ALLEGATIONS

1. During a record review for the Plant conducted on October 4, 2020, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), New Source Review ("NSR") Permit No. 9176, Special Conditions ("SC") No. 1, Federal Operating Permit ("FOP") No. O2001,

General Terms and Conditions ("GTC") and Special Terms and Conditions ("STC") No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 15,358.00 pounds ("lbs") of volatile organic compounds ("VOC") as fugitive emissions, during an emissions event (Incident No. 341085) that occurred on August 22, 2020 and lasted 15 minutes. The emissions event occurred when the incorrect packing was used during the overhaul of an automatic valve that caused a leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

2. During a record review for the Plant conducted on December 1, 2020, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 11,892.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 344343) that occurred on October 18, 2020 and lasted 20 minutes. The emissions event occurred due to a missing mechanical plug from an autoclave block, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
3. During a record review for the Plant conducted on January 25, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 11,428.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 347122) that occurred on December 4, 2020 and lasted 49 minutes. The emissions event occurred when the C Unit received cold ethylene gas from outside the C Unit Batter limits that caused thermal contractions and the packing leak, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.
4. During a record review for the Plant conducted on September 21, 2021, an investigator documented that the Respondent failed to prevent unauthorized emissions, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), NSR Permit No. 9176, SC No. 1, FOP No. O2001, GTC and STC No. 12, and TEX. HEALTH & SAFETY CODE § 382.085(b). Specifically, the Respondent released 15,253.00 lbs of VOC as fugitive emissions, during an emissions event (Incident No. 364400) that occurred on August 6, 2021 and lasted ten minutes. The emissions event occurred due to a leak from the hypercompressor discharge purge valve packing, resulting in the release to the atmosphere. Since the emissions event was not caused by a sudden unavoidable breakdown of equipment or process beyond the control of the owner or operator and could have been avoided by better design and/or better operational and maintenance practices, the Respondent is precluded from asserting an affirmative defense under 30 TEX. ADMIN. CODE § 101.222.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this 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. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: The Dow Chemical Company, Docket No. 2021-0089-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 the SEP as set forth in Section I, Paragraph No. 4. The amount of \$26,687 of the assessed penalty is conditionally offset based on the Respondent's implementation and completion of the SEP pursuant to the terms of the SEP Agreement, as defined in Attachment A. Penalty payments for any portion of the SEP deemed by the Executive Director as not complete shall be paid within 30 days after the date the Executive Director demands payment.
3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this 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 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.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this 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. Extension requests shall be sent to the Enforcement Division at the address listed above.

7. This 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 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.
8. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this 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 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.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

-----  
For the Commission

-----  
Date

  
-----  
For the Executive Director

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7/7/2023  
-----  
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, 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 OAG 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 OAG 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.

  
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Signature

-----  
5/18/2023  
-----  
Date

-----  
DUSTIN HEDGES  
-----  
Name (Printed or typed)  
Authorized Representative of  
The Dow Chemical Company

-----  
RESPONSIBLE CARE LEADER  
-----  
Title

If mailing address has changed, please check this box and provide the new address below:

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

Attachment A

Docket Number: 2021-0089-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

<b>Respondent:</b>	<b>The Dow Chemical Company</b>
<b>Payable Penalty Amount:</b>	<b>\$53,375</b>
<b>SEP Offset Amount:</b>	<b>\$26,687</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Administrator SEP</b>
<b>Third-Party Administrator:</b>	<b>Southeast Texas Regional Planning Commission</b>
<b>Project Name:</b>	<b><i>Lighthouse Program</i></b>
<b>Total Project Budget:</b>	<b>\$5,679,300.00</b>
<b>Location of SEP:</b>	<b>Jefferson County</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 **Southeast Texas Regional Planning Commission** for the *Lighthouse Program* Project (the “Project”). The Project is to hire a contractor to conduct initial inspections of eligible applicants’ homes. The inspections will determine whether the home is in a condition suitable for weatherization and energy efficiency upgrades. Upgrades will not be completed at homes that need new roofs or significant foundation work. The contractor shall also determine what weatherization and energy efficiency upgrades are necessary and appropriate for the home and write a work plan. This contractor shall also conduct the final inspection of the home after the work is completed.

The Third-Party Administrator will conduct eligibility determinations to verify that participants own their homes and qualify as low-income. The Third-Party Administrator will also prepare all contracts with contractors and homeowners, coordinate between the contractors and the homeowners to answer questions, ensure that work is done timely and properly, and arrange for any necessary repairs to new equipment under the 12-month warranty period after work is completed. The Project will be done in accordance with all federal, state, and local environmental laws and regulations. The contribution will be used in accordance with the SEP agreement between the Third-Party Administrator and the TCEQ.

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**

Implementation of this Project will benefit air by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and the nitrogen oxides associated with the combustion of fuel and the generation of electricity. Past energy audits have shown a 12-30% reduction in energy usages after completion of the weatherization and energy upgrades.

**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 **Southeast Texas Regional Planning Commission SEP** and shall mail the contribution with a copy of the Agreed Order to:

Southeast Texas Regional Planning Commission  
Attention: Pamela Lewis, Program Manager  
2210 Eastex Freeway  
Beaumont, Texas 77703

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the 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  
Docket No. 2021-0089-AIR-E  
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. **Recognition**

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.