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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

REGIONAL HEARING CLERK
EPA REGION 6

IN THE MATTER OF:

The Dow Chemical Company
Nederland, Texas

RESPONDENT

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DOCKET NO. CAA-06-2025-3355

CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 113(d) of the Clean Air Act, (the “CAA” or the “Act”), 42 U.S.C. § 7413(d), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permit (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 (“EPA”). On EPA’s behalf, the Director of the Enforcement and Compliance Assurance Division, EPA Region 6, has been delegated the authority to settle civil administrative penalty and

compliance proceedings under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

3. The Dow Chemical Company (“Dow” or “Respondent”) is a corporation doing business in the State of Texas. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as the “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 113(d) of the Act, as amended, 42 U.S.C. § 7413(d), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 113(a)(3)(A) of the Act, 42 U.S.C. § 7413(a)(3)(A).

6. On November 19, 2024, EPA issued to Respondent a Notice of Violation and Opportunity to Confer (the “NOVOC”) and provided a copy of the NOVOC to the State of Texas. In the NOVOC, EPA provided notice to both Respondent and the State of Texas that EPA found Respondent committed the alleged violations of the National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Benzene Waste Operations described in Section F of this CAFO and provided Respondent an opportunity to confer with EPA.

7. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. §§ 22.4(b) and 22.18(b).

8. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. DEFINITIONS

9. “Hazardous air pollutant” or “HAP” means one of the chemicals listed in section 112(b) of the Clean Air Act.

10. “Point of waste generation” means the location where a waste stream exits the process unit component or storage tank prior to handling or treatment in an operation that is not an integral part of the production process, or in the case of waste management units that generate new wastes after treatment, the location where the waste stream exits the waste management unit component.

11. “Waste” means any material resulting from industrial, commercial, mining or agricultural operations, or from community activities that is discarded or is being accumulated, stored, or physically, chemically, thermally, or biologically treated prior to being discarded, recycled, or discharged.

12. “Waste management unit” means a piece of equipment, structure, or transport mechanism used in handling, storage, treatment, or disposal of waste. Examples of waste management unit include a tank, surface impoundment, container, oil-water separator, individual drain system, steam stripping unit, thin-film evaporation unit, waste incinerator, and landfill.

13. “Waste stream” means the waste generated by a particular process unit, product tank, or waste management unit. The characteristics of the waste stream (e.g., flow rate, HAP concentration, water content) are determined at the point of waste generation. Examples include process wastewater, product tank drawdown, sludge and slop oil removed from waste management units, and landfill leachate.

D. GOVERNING LAW

14. The Act is designed “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

15. EPA is authorized by Section 113 of the CAA, 42 U.S.C. § 7413, to take action to ensure that air pollution sources comply with all federally applicable air pollution control requirements. These include requirements promulgated by EPA and those contained in federally-enforceable permits.

16. Ninety (90) days after the effective date of any standard, no owner or operator shall operate any existing source subject to that standard in violation of the standard, except under a waiver granted by the Administrator under this part or under an exemption granted by the President under Section 112(c)(2) of the CAA. 40 C.F.R. § 61.05(c).

17. Compliance with numerical emission limits shall be determined in accordance with emission tests established in 40 C.F.R. § 61.13 or as otherwise specified in an individual subpart. 40 C.F.R. § 61.12(a).

18. Compliance with design, equipment, work practice or operational standards shall be determined as specified in an individual subpart. 40 C.F.R. § 61.12(b).

19. The owner or operator of each stationary source shall maintain and operate the source, including associated equipment for air pollution control, in a manner consistent with good air pollution control practice for minimizing emissions. 40 C.F.R. § 61.12(c).

20. Under Section 112(d) of the CAA, 42 U.S.C. § 7412(d), EPA promulgated the NESHAP for Benzene Waste Operations on March 7, 1990. *See* 55 Fed. Reg. 8346.

21. The Benzene Waste Operations NESHAP, as amended pursuant to Section 112(q) of the CAA, became effective on January 7, 1993, and is codified at 40 C.F.R. Part 61, Subpart FF.

22. 40 C.F.R. § 61.340(a) states that the provisions of this subpart apply to owners and operators of chemical manufacturing plants, coke by-product recovery plants, and petroleum refineries.

23. 40 C.F.R. § 61.340(b) states that the provisions of this subpart apply to owners and operators of hazardous waste treatment, storage, and disposal facilities that treat, store, or dispose of hazardous waste generated by any facility listed in 40 C.F.R. § 61.340(a). The waste streams at hazardous waste treatment, storage, and disposal facilities subject to the provisions of this subpart are the benzene-containing hazardous waste from any facility listed in 40 C.F.R. § 61.340(a).

24. 40 C.F.R. § 61.355(b) states that for purposes of the calculation of the total annual benzene quantity from facility waste, an owner or operator shall determine the annual waste quantity at the point of waste generation.

E. FINDINGS OF FACT AND CONCLUSIONS OF LAW

25. Respondent owns and/or operates an integrated mono-nitrobenzene and aniline production complex, which is located at 5470 North Twin City highway, Suite A, Nederland, Texas, in the Beaumont-Port Arthur area (the “Dow Beaumont Aniline” or the “Facility”).

26. The Facility is a chemical manufacturing facility that operates under the CAA Title V Federal Operating Permit Number O1961 issued on March 17, 2021.

27. At all times relevant to this proceeding, Respondent owned and/or operated units that emit HAPs and Volatile Organic Compounds at the Facility.

28. Between February 5 and February 15, 2024, EPA used the Geospatial Measurement of Air Pollution (“GMAP”) vehicle to monitor facilities in Texas.

29. On February 6, 2024, as part of a multi-scale monitoring project in the Beaumont-Port Arthur area, EPA used a GMAP vehicle to identify a potential benzene source near the Aniline Lab and the Maintenance Shop at the Facility, which prompted onsite inspectors to further investigate.

30. On March 29, 2024, EPA requested that Respondent verify ownership, the acquisition history of the Facility, the size of the Facility, and the hours per year the Facility operates.

31. On June 11, 2024, EPA requested Respondent provide the Facility’s most recent Total Annual Benzene (“TAB”) Report and the standard operation procedures (“SOP”) for the maintenance washout process.

32. On June 14, 2024, Respondent provided the requested information with the SOP stating the wash water was collected from the washout area and then routed to the Aniline Deepwell for storage. Aniline Deepwell is listed on the Facility’s TAB report as a point of waste generation, not the maintenance washout area. EPA considered information provided by Respondent to determine whether violations occurred at the Facility.

33. On November 19, 2024, EPA sent Respondent the NOVOC and provided a copy to the State of Texas.

34. On December 5, 2024, and on various other occasions, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information or materials.

35. On January 23, 2025, Respondent submitted to EPA an interim disclosure of violations that had been submitted to the Texas Commission on Environmental Quality (“TCEQ”) on January 16, 2025. The disclosure listed one violation for failing to meet the requirements for TAB greater than or equal to 1 megagram per year. Additionally, the Respondent included a notification of an environmental audit, dated October 24, 2024, to be conducted with a third party at the Facility wherein violations discovered would be submitted to TCEQ upon completion of the audit.

F. ALLEGED VIOLATIONS

36. EPA has conducted a comprehensive review of the facility-specific information gathered based upon observations made from the GMAP, facility permitted operations, and information provided by Respondent. Based on this review, EPA alleges that Respondent violated 40 C.F.R. § 61.355(b), by failing to determine the total annual waste quantity at the point of waste generation.

G. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

a. General

37. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

- a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO;

b. neither admits nor denies the specific factual allegations contained in the CAFO;

c. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement.

d. consents to the assessment of a civil penalty, as stated below;

e. consents to the issuance of any specified compliance or corrective action order¹;

f. consents to the conditions specified in this CAFO;

g. consents to any stated Permit Action;

h. waives any right to contest the alleged violations set forth in Section F of this CAFO; and

i. waives its rights to appeal the Final Order included in this CAFO.

38. For the purpose of this proceeding, Respondent:

a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;

b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement action;

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (d) and (f) are not applicable to this particular case.

c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607(b)(1);

d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Eastern District of Texas;

e. waives any right it may possess at law or in equity to challenge the authority of EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and

f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

b. Penalty Assessment and Collection

39. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business,

Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of any penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of \$120,000 (the "EPA Penalty"). The EPA Penalty has been determined in accordance with Section 113 of the CAA, 42, U.S.C. § 7413, and at no time exceeded EPA's statutory authority.

40. Respondent agrees to:

a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO; and

b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) U.S. Postal Service mail; (2) non-U.S. Postal Service shipping (*e.g.*, FedEx); (3) wire transfer; (4) Automated Clearinghouse for receiving U.S. currency; or (5) Online Payment.

For regular U.S. Postal Service mail payment should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979078
St. Louis, MO 63197-9000

For U.S. Postal Service mail sent certified and/or with return receipt service, or if using a non-U.S. Postal Service shipping provider (*e.g.* FedEx), payment should be remitted to:

U.S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, MO 63045

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as "remittance express" or "REX"):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: Jesse White
(301) 887-6548

For Online Payment:

<https://www.pay.gov/paygov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2025-3355 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2025-3355. Respondent's adherence to this request will ensure proper

credit is given when penalties are received for Region 6. Respondent shall also email a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following email addresses:

Sydney Knodl
U.S. EPA Region 6
Knodl.Sydney@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
Vaughn.Lorena@epa.gov

41. Respondent agrees to pay the following on any overdue EPA Penalty:

a. Interest. Pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).

b. Nonpayment Penalty. On any portion of a civil penalty more than ninety (90) calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph (a) of this Paragraph.

42. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7413(d)(5), including, but not limited to, attorney's fees incurred by the United States for collection proceedings.

43. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7413(d)(5) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;

b. collect the above-referenced debt by administrative offset (*i.e.*, the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

c. suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

c. Conditions of Settlement

44. By no later than April 24, 2025, Respondent shall complete the ongoing Environmental Audit (the "Audit") described in the Notice of Audit letter dated October 24, 2024, including the use of C-K Associates LLC ("Auditor") to review and verify the TAB. The Audit shall include, but not be limited to:

- a. An identification of each benzene waste stream as defined in 40 C.F.R. § 61.341 from the point of waste generation as required by 40 C.F.R. § 61.355, that is required to be included in the TAB;
 - b. A review and identification of the calculations and/or measurements used to determine the flows of each benzene waste stream for the purpose of ensuring the accuracy of the annual waste quantity for each waste stream;
 - c. An assessment of the benzene concentration in each benzene waste stream against the requirements of 40 C.F.R. § 61.355(c)(1), (2) and (3);
 - d. A sampling plan, if needed, consistent with the requirements of 40 C.F.R. § 61.355(c)(3) for benzene concentration in each benzene waste stream that does not meet the provisions of 40 C.F.R. § 61.355(c)(1) and (2). If sampling is required under this subparagraph, the sampling shall be completed before the requirements contained in Paragraph 46 are submitted to EPA.
45. By no later than one-hundred and eighty (180) days following the completion of the Audit, Respondent shall submit to EPA a copy of all Disclosure of Violation notices submitted to the TCEQ as a result of the Audit that includes the items identified in Appendix A. Such documentation shall be emailed to:
- Sydney Knodl
U.S. EPA Region 6
Knodl.Sydney@epa.gov
46. By no later than one-hundred and eighty (180) days following the completion of the Audit, Respondent shall submit to EPA and TCEQ the 2023 and 2024 TAB reports revised as necessary to include all points of waste generation and incorporate benzene concentration in

each benzene waste stream, consistent with the requirements of 40 C.F.R. § 61.355(c)(1), (2) and (3).

47. By no later than one-hundred and twenty (120) days following the Effective Date of this CAFO, Respondent shall implement an annual program of reviewing process information for the Facility, including, but not limited to, construction projects, point of waste generation sampling, updates of specific waste stream documentation, waste shipped off site, maintenance and turnaround activities, and review of Management of Changes, to ensure that all new benzene waste streams are included in the Facility's waste stream inventory and the annual TAB report, and to ensure that any new waste management units, if applicable, are properly accounted for and managed in accordance with the BWON regulations.

48. By no later than three-hundred and fifty-five (355) Days after the Effective Date of this CAFO, Respondent shall complete and submit to the applicable TCEQ permitting program (preconstruction and/or Title V CAA), appropriate applications to incorporate the reporting requirements of 40 C.F.R. § 61.357(a)(1) through (a)(3) and Annual Program requirements of Paragraph 47 into a non-Title V, federally enforceable permit for the Facility.

e. Additional Terms of Settlement

49. Respondent agrees that the time period from the Effective Date of this CAFO until all the conditions specified in Paragraphs 44 through 48 of this CAFO are completed (the "Tolling Period") shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by Complainant on any claims set forth in Section F of this CAFO (the "Tolled Claims"). Respondent shall not assert, plead, or raise in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other

similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolloed Claims.

50. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors and assigns. From the Effective Date of this Agreement until the end of the Tolling Period, as set out in Paragraph 49 of this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to transfer of ownership or control of any portion or interest in the Facility. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment or delegation, Respondent shall continue to be bound by the obligations or liabilities of this CAFO until EPA has provided written approval.

51. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information. *See 40 C.F.R. Part 2, Subpart B (Confidentiality of Business Information).*

52. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

53. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are

significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

54. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA:	Sharlow.LeeAnne@epa.gov
To Respondent:	CMoreno3@dow.com

55. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 43 of this CAFO, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

56. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service ("IRS") annually, a completed IRS Form 1098-F ("Fines, Penalties, and Other Amounts") with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number ("TIN"), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R.

§ 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at Chalifoux.Jessica@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- d. In the event that Respondent has certified in its completed IRS Form W-9 that it has applied for a TIN and that TIN has not been issued to Respondent within 30 days after the Effective Date, then Respondent, using the same email address identified in the preceding subparagraph, shall further:
 - i. notify EPA’s Cincinnati Finance Center of this fact, via email, within 30 days after the 30 days after the Effective Date of this Order per Section I of this CAFO; and
 - ii. provide EPA’s Cincinnati Finance Center with Respondent’s TIN, via email, within five (5) days of Respondent’s issuance and receipt of the TIN.

H. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

57. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in Sections E and F above.

58. If Respondent fails to timely and satisfactorily complete every condition stated in Paragraphs 44 through 48 of this CAFO (including payment of any stipulated penalties owed), then Complainant may compel Respondent to perform the conditions in Paragraphs 44 through 48, seek civil penalties that accrue from the Effective Date of this CAFO until compliance is achieved, and seek other relief in a civil judicial action pursuant to the Clean Air Act, pursuant to contract law, or both.

59. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

60. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 44 through 48 is restitution, remediation, or required to come into compliance with the law.

61. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

62. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

63. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties of up to \$124,426 per day of violation, or both, as provided in Section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

64. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit. EPA does not, by its consent to the entry of this CAFO, warrant or aver in any manner that Respondent's compliance with any aspect of this CAFO will result in compliance with provisions of the Clean Air Act, 42 U.S.C. § 7401, et seq., or with any other provisions of federal, state, or local laws, regulations, or permits.

65. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

I. EFFECTIVE DATE

66. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

The foregoing Consent Agreement In the Matter of The Dow Chemical Company, Docket No. CAA-06-2025-3355, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 3/21/25
Elizabeth McIntosh
Site Manufacturing Director
5470 North Twin City Hwy
Nederland, TX 77627
The Dow Chemical Company

Elizabeth McIntosh

FOR COMPLAINANT:

Date: March 24, 2025

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

APPENDIX A

**The Dow Chemical Company
CAA-06-2025-3355**

The Disclosure of Violation notices shall, at a minimum, comply with the following:

1. Include a written description of the instances of non-compliance noted during the Audit, including (a) the duration of the non-compliance (from the date the non-compliance began to the date corrective action was completed) and (b) references to relevant statutory, regulatory and permit provisions, where appropriate ("Audit Findings").
2. Include a description of the necessary corrective actions for Respondent to take in order to address the Audit Findings for instances of noncompliance noted during the Audit. At its option, Auditor may also identify any recommended actions that Respondent may choose to take to improve its environmental performance and to make any programs, procedures, or policies consistent with EPA Environmental Management Systems Guidance.
3. Identify any instances of noncompliance corrected during the Audit, including a description of the corrective measures and when they were implemented.
4. Include the following certification, signed and dated by the Auditor or supervising manager for the Audit:

I certify that this Disclosure of Violation notice was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information upon which the audit is based. I further certify that the audit was conducted, and this notice was prepared, pursuant to all applicable auditing, competency, independence, impartiality, and conflict of interest standards and protocols. Based on my

personal knowledge and experience, the inquiry of personnel involved in the audit, the information submitted herein is true, accurate, and complete. I am aware that there are significant penalties for making false material statements, representations, or certifications, including the possibility of fines and imprisonment for knowing violations.

The Disclosure of Violation notices shall be emailed to:

Sydney Knodl
U.S. EPA Region 6
Knodl.Sydney@epa.gov

FILED

24 MAR 25 PM 02:43

**REGIONAL HEARING CLERK
EPA REGION 6**

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS**

IN THE MATTER OF:

The Dow Chemical Company
Nederland, Texas

RESPONDENT

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DOCKET NO. CAA-06-2025-3355

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

The Dow Chemical Company is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Dated _____

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order was filed with the Regional Hearing Clerk, U.S. EPA - Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that I sent a true and correct copy on this day in the following manner to the email addresses:

Copy via Email to Complainant - DELIVERY RECEIPT REQUESTED

Sharlow.LeeAnne@epa.gov

Copy via Email to Respondent – DELIVERY RECEIPT REQUESTED

Liz.McIntosh@dow.com
Elizabeth McIntosh
The Dow Chemical Company
5470 North Twin City Hwy
Nederland, TX 77627

Office of Regional Counsel
U.S. EPA, Region 6
Dallas, Texas