



DEPARTMENT OF JUSTICE

**Notice of Lodging of Proposed Stipulation and Order Modifying Consent Decree under the Clean Air Act**

On January 8, 2024, the Department of Justice lodged a proposed Stipulation and Order Modifying Consent Decree (“Stipulation”) with the United States District Court for the Eastern District of Louisiana in the lawsuit entitled *United States and the Louisiana Department of Environmental Quality v. The Dow Chemical Company, Union Carbide Corp. and Performance Materials, NA, Inc.*, Civil Action No. 2:21-cv-00114-MLCF-JVM.

The United States and Louisiana Department of Environmental Quality filed this lawsuit under the Clean Air Act and Louisiana Environmental Quality Act in January 2021. The complaint sought injunctive relief and civil penalties based on violations of the Clean Air Act’s New Source Review requirements, New Source Performance Standards, National Emissions Standards for Hazardous Air Pollutants, “Title V” program requirements and operating permits, and related Texas and Louisiana state implementation plan requirements. The alleged violations involved flares used at petrochemical manufacturing plants owned and operated by the defendants, The Dow Chemical Company, Union Carbide Corp. and Performance Materials, NA, Inc., in Hahnville and Plaquemine, Louisiana, and Freeport and Orange, Texas. The Consent Decree, approved and entered by the Court in June 2021, required the defendants to perform injunctive relief, including (among other things) the installation and operation of Flare Gas Recovery System (“FGRS”) compressors at the Orange Facility covered by the Consent Decree, pay a \$3,000,000 civil penalty, and perform three state-authorized Beneficial Environmental Projects in Louisiana.

The Stipulation lodged today changes the number of FGRS compressors at the Orange Facility to three from two; modifies the requirements for FGRS operation time to reflect the additional FGRS compressor (specifically, once the third compressor is operating, the Stipulation requires the Orange Facility to have two “Compressors Available for Operation or in operation

95% of the time and one Compressor Available for Operation or in operation at all times,” increased from “one Compressor Available for Operation or in operation 98% of the time and two Compressors Available for Operation or in operation 90% of the time”); adds default molecular weights for nitrogen, natural gas, and methane; and corrects an incorrect paragraph cross reference in Appendix 1.2, Step 2, of the Consent Decree

The publication of this notice opens a period for public comment on the proposed Stipulation. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the Louisiana Department of Environmental Quality v. The Dow Chemical Company, Union Carbide Corp. and Performance Materials, NA, Inc.*, Civil Action No. 2:21-cv-00114-MLCF-JVM, DOJ reference number 90-5-2-1-11114. All comments must be submitted no later than 30 days after the publication date of this notice. Comments may be submitted either by e-mail or by first-class mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By first-class mail	Assistant Attorney General U.S. DOJ-ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ-ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$3.25 (25 cents per page reproduction cost) payable to the United States Treasury.

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