



3. For the purpose of this CAFO, Respondent admits the jurisdictional allegations herein; however, the Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in this CAFO. This CAFO states a claim upon which relief may be granted.
4. Respondent explicitly waives any right to contest the allegations and its right to appeal the proposed final order contained in this CAFO and waives all defenses which have been raised or could have been raised to the claim in the CAFO.
5. The CAFO resolves only those violations which are alleged herein.
6. Respondent consents to the issuance of this CAFO as the most appropriate means of settling EPA's allegations without any adjudication of issues of law or fact, consents to the assessment and payment of the civil penalty in the amount and by the method set out in this CAFO, and consents to the compliance order in this CAFO.

## II. JURISDICTION

7. This CAFO is issued by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), as amended by the Hazardous and Solid Waste Amendments of 1984 and is simultaneously commenced and concluded through the issuance of this CAFO under 40 Code of Federal Regulations ("C.F.R.") §§ 22.13(b) and 22.18(b)(2) and (3).
8. Respondent agrees to undertake and complete all actions required by the terms and conditions of this CAFO. In any action by EPA or the United States to enforce the terms of this CAFO, Respondent agrees not to contest the authority or jurisdiction of EPA to issue or enforce this CAFO and agrees not to contest the validity of this CAFO or its terms or conditions.

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

9. Respondent is a limited liability Company authorized to do business in the State of Texas.  
  
Respondent is the owner and operator of Monument Chemical Houston, LLC, located at 16717 Jacintoport Blvd, Houston, TX 77015.
10. Respondent is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 30 Texas Admin. Code § 335.2(25), [40 C.F.R. § 260.10].
11. Monument Chemical Houston, LLC. is a chemical manufacturer which produces organic chemical/specialty chemicals and intermediates.
12. The Facility is a "facility" within the meaning of 30 Texas Admin. Code § 335.1(60) [40 C.F.R. § 260.10].
13. From April 24-28, 2023, EPA conducted a RCRA onsite inspection and record review of the Facility's activities as a generator of hazardous waste including a review of the information voluntarily provided to EPA by Respondent (the "Inspection").
14. During the Inspection, EPA discovered that Respondent generated, and offered for transport and treatment, hazardous wastes as defined in 30 Texas Admin. Code § 335.1 (70), [40 C.F.R. §§ 261.21, 261.22, 261.24, and 261.33].
15. Based on its review, EPA determined that Respondent generated the hazardous waste streams in quantities that exceeded the threshold amount of 1000 kilograms of non-acute hazardous waste in a month, corresponding to Large Quantity Generator (LQG) status under 30 Texas Admin. Code, Chapter 335, Subchapter C, [40 C.F.R. Part 262], for the periods that such wastes remained onsite.

16. Respondent is a "generator" of "hazardous waste" as those terms are defined in 30 Texas Admin. Code §§ 335.1(66) & (70) [40 C.F.R. § 260.10].
17. As a generator of hazardous waste, Respondent is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth in 30 Texas Admin. Code Chapter 335, Subchapter C, [40 C.F.R Part 262].
18. EPA submitted to Respondent on August 20, 2023, a Notice of Potential Violation and Opportunity to Confer. In a conference call on September 20, 2023, EPA conferred with Respondent regarding the violations alleged herein and provided an opportunity for Respondent to submit additional information and materials.

#### IV. VIOLATIONS

##### **Claims 1. Failure to Properly Mark or Label Tanks**

19. The allegations in Paragraphs 1-18 are realleged and incorporated herein by reference.
20. Under 30 Texas Admin. Code § 335.53, [40 C.F.R. § 262.17(a)(5)], A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided that all of the following conditions for exemption are met: a large quantity generator must mark or label its tanks with (i) the words "Hazardous Waste" and (ii) an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s)).
21. During inspection, EPA identified hazardous waste tanks did not include the language "Hazardous Waste" as required by the marking and labeling requirements set forth at 40 C.F.R. Part 262.17(a)(5).

22. At all times relevant to this CAFO, Respondent did not comply with one or more of the requirements for Large Quantity Generators under 30 Texas Admin. Code, Chapter 335.53, Subchapter C [40 C.F.R. § 262.17(a)(5)].

**Claims 2. Failure to Make Adequate Hazardous Waste Determinations**

23. The allegations in Paragraphs 1-18 are realleged and incorporated by reference.

24. Under 30 Tex. Admin. Code § 335.504, [40 C.F.R. §262.11], a person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations. A hazardous waste determination is made using the following steps: (a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

25. During the inspection, EPA reviewed Respondent's records and determined that Respondent failed to make adequate hazardous waste determinations for one of Respondent's solid waste streams at the point of generation.

26. At all times relevant to this CAFO, Respondent failed to make the requisite hazardous waste determination for solid waste streams at the point of generation pursuant to 30 Tex. Admin. Code § 335.504, [40 C.F.R. § 262.11].

**Claims 3. Failure to Properly Close a Container Holding a Hazardous Waste.**

27. The allegations in Paragraphs 1-18 are realleged and incorporated by reference.

28. Under 30 Tex. Admin. Code § 335.53, [40 C.F.R. §262.15(a)(4)] a container holding hazardous waste must be closed at all times during accumulation, except: (i) When adding, removing, or consolidating waste; or (ii) When temporary venting of a container is necessary (A) for the proper operation of equipment, or (B) To prevent dangerous situations, such as build-up of extreme pressure.
29. During the inspection, EPA determined that respondent failed to properly close a hazardous waste container located in the facility's satellite accumulation area under 40 C.F.R. § 262.15(4).
30. At all times relevant to this CAFO, the Respondent failed to properly close containers located in the facility's satellite accumulation area pursuant to 30 Tex. Admin. Code § 335.53, [40 C.F.R. §262.15(a)(4)].

#### **V. COMPLIANCE ORDER**

31. Pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), Respondent is hereby ordered to take the following actions, and within 30 calendar days of the effective date of this CAFO, Respondent shall provide in writing the following:
  - A. Respondent shall certify that it has assessed all its solid waste streams at the Monument Chemical Houston, LLC. Facility to determine the accurate waste codes and has developed and implemented standard operating procedures ("SOPs") to ensure that Respondent is operating the Monument Chemical Houston, LLC. Facility in compliance with RCRA and the regulations promulgated thereunder, including, but not limited to, procedures for: (a) making hazardous waste determinations; (b) managing hazardous wastes; (c) reporting, transporting, and disposing of hazardous waste; (d) preparing its manifests; and (e) meeting the requirements of the land disposal requirements; and

- B. Respondent shall certify that it has accurately and adequately complied with its RCRA Section 3010 notification for the Monument Chemical Houston, LLC; and
- C. Respondent shall provide, with its certification, a copy of Respondent's SOPs as described in subparagraph A above.

32. In all instances in which this CAFO requires written submission to EPA, the submittal made by Respondent shall be signed by an owner or officer of the Respondent and shall include the following certification:

"I certify under the penalty of law that this document and all its attachments were prepared by me or under my direct supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Copies of all documents required by this CAFO shall be sent to the following:

U.S. EPA, Region 6  
Enforcement and Compliance Assurance Division (ECDSR)  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
ATTN: Sandesh Thapa

Where required, notice shall be sent electronically by email or telephone to Enforcement Officer Sandesh Thapa, respectively at [thapa.sandesh@epa.gov](mailto:thapa.sandesh@epa.gov) or at 214-665-2265.

## **VI. TERMS OF SETTLEMENT**

### **A. Penalty Provisions**

33. Pursuant to the authority granted in Section 3008 of RCRA, 42 U.S.C. § 6928, and upon consideration of the entire record herein, including the above referenced Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, upon the seriousness of

the alleged violations, and Respondent's good faith efforts to comply with the applicable regulations, it is ordered that Respondent be assessed a civil penalty of twenty seven thousand, four hundred and thirty nine dollars (\$27,439.00).

34. The penalty shall be paid within thirty (30) calendar days of the effective date of this CAFO and made payable to the Treasurer United States.

35. The EPA web address, <https://www.epa.gov/financial/additional-instructions-making-payments-epa>, provides a list of options available for transmitting payment of penalties.

Options for payment include:

- A. Electronic payments via Pay.gov. <https://www.pay.gov/public/form/start/11751879>
- B. Remittance by Regular Mail, U.S. Postal Mail (including certified mail) or U.S. Postal Service

Express Mail. The check should be remitted to:

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

- C. Overnight Mail (non-U.S. Postal Service), the check should be remitted to:

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

- D. Wire Transfer:

Federal Reserve Bank of New York  
ABA: 021030004  
Account No. 68010727  
SWIFT address = FRNYUS33



33 Liberty Street  
New York, NY 10045

The case name and docket number (**In the Matter of Monument Chemical Houston, LLC.,  
Docket No. RCRA-06-2024-0917**) shall be clearly documented on or within the chosen  
method of payment to ensure proper credit.

36. The Respondent shall send a simultaneous notice of such payment to the following:

Lorena S. Vaughn  
Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102

U.S. EPA, Region 6  
Enforcement and Compliance Assurance Division (ECAD-SR)  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102  
ATTN: Sandesh Thapa

Respondent's adherence to this request will ensure proper credit is given when penalties  
are received by EPA.

37. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will  
assess interest and late payment penalties on outstanding debts owed to the United States and  
a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil  
penalty assessed in this CAFO will begin to accrue on the effective date of the CAFO and will be  
recovered by EPA on any amount of the civil penalty that is not paid within thirty (30) calendar  
days of the civil penalty's due date and will be assessed at the rate of the United States  
Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

38. Moreover, the costs of the Agency's administrative handling overdue debts will be charged and  
assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). EPA will also

assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) day period the penalty remains unpaid. In addition, a penalty charge of up to six percent per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(b). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent.31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

39. 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. § 162-21(b)(2), performance of the Compliance Order and payment of the civil penalty are restitution, remediation, or required to come into compliance with the law.

#### **B. Costs**

40. Each party shall bear its own costs and attorney's fees. Furthermore, Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under the Equal Access to Justice Act (5 U.S.C. § 504), as amended by the Small Business Regulatory Enforcement Fairness Act (P.L. 04-121), and any regulations promulgated pursuant to those Acts.

#### **C. Termination and Satisfaction**

41. When Respondent believes that it has complied with all the requirements of this CAFO, including compliance with the Compliance Order and payment of the civil penalty, Respondent shall also certify this in writing and in accordance with the certification language set forth in Section V (Compliance Order). Unless the EPA, Region 6 objects in writing within sixty (60) days

of EPA's receipt of Respondent's certification, then this CAFO is terminated on the basis of Respondent's certification.

**D. Effective Date of Settlement**

42. This CAFO shall become effective upon filing with the Regional Hearing Clerk.

THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS CONSENT AGREEMENT AND FINAL ORDER:

FOR THE RESPONDENT:

Date: 12/20/23

 Maria Kraemer  
Monument Chemical Houston, LLC.

FOR THE COMPLAINANT:

Date: January 3, 2024

 Cheryl T. Seager  
Digitally signed by CHERYL SEAGER  
Date: 2024.01.03 11:22:13 -06'00'  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division  
U. S. EPA, Region 6

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing CAFO is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged herein. Nothing in this Final Order shall be construed to waive, extinguish or otherwise affect Respondent's (or its officers, agents, servants, employees, successors, or assigns) obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. Pursuant to 40 C.F.R. § 22.31(b) this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Date: \_\_\_\_\_

**THOMAS  
RUCKI**

Digitally signed by THOMAS  
RUCKI  
Date: 2024.01.03 15:27:59  
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Thomas Rucki  
Regional Judicial Officer

**CERTIFICATE OF SERVICE**

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

Copy via Email to Complainant:

mcdonald.ashley@epa.gov

Copy via Email to Respondent:

timothy.wilkins@bracewell.com

**McDonald,  
Ashley**

Digitally signed by  
McDonald, Ashley  
Date: 2024.01.03 15:20:10  
-06'00'

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EPA Region 6 Representative