



**STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Air Pollution Control
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, 15th Floor
Nashville, TN 37243**

August 29, 2022

C T Corporation System
300 Montvue Road
Knoxville, Tennessee 37919-5546

Certified Article Number

9414 7266 9904 2198 3525 39

SENDER'S RECORD

RE: The Chemours Company FC, LLC
Facility Id. 43-0007
Case No. APC21-0097

Dear Sir or Madam:

Enclosed, please find an Order and Assessment of Civil Penalty issued by Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, Tennessee Department of Environment and Conservation (TDEC), in the above-referenced matter. Please read it carefully and pay special attention to the Notice of Rights section.

If you have any questions regarding this Order and Assessment of Civil Penalty, please contact Kevin McLain at (615) 532-6819 or kevin.mclain@tn.gov or the TDEC Division of Air Pollution Control at (615) 532-0554 or via e-mail at air.pollution.control@tn.gov.

Sincerely,

A handwritten signature in blue ink, reading "Kevin M. McLain", is positioned above the typed name.

Kevin McLain
Section Manager, Enforcement
Division of Air Pollution Control

vom

Enclosure

TENNESSEE AIR POLLUTION CONTROL BOARD

IN THE MATTER OF:)	DIVISION OF AIR POLLUTION
)	CONTROL
)	
THE CHEMOURS COMPANY FC, LLC,)	
)	
)	
RESPONDENT.)	CASE NO. APC21-0097

**TECHNICAL SECRETARY'S ORDER AND
ASSESSMENT OF CIVIL PENALTY**

Michelle Walker Owenby, Technical Secretary of the Air Pollution Control Board, states:

PARTIES

I.

Michelle Walker Owenby is the Technical Secretary of the Air Pollution Control Board ("Board") and Director of the Division of Air Pollution Control ("Division"), Tennessee Department of Environment and Conservation ("Department").

II.

The Chemours Company FC, LLC ("Respondent") is a foreign limited liability company authorized to do business in the State of Tennessee. Respondent's facility address is 1950 DuPont Road, New Johnsonville, Tennessee. Respondent's registered agent for service of process is C T Corporation System, 300 Montvue Road, Knoxville, Tennessee 37919-5546.

AUTHORITY

III.

The Technical Secretary may assess a civil penalty of up to \$25,000.00 per day for each day of violation of the Tennessee Air Quality Act, Tenn. Code Ann. §§ 68-201-101 to -121 ("Act"), or Tennessee Air Pollution Control Regulations, Tenn. Comp. R. & Regs. 1200-03-01 to -36; 0400-30-01 to -39, ("Rules"). Tenn. Code Ann. § 68-201-116. The Technical Secretary may issue an order for correction to the responsible person when provisions of the Act or Rules are violated, and such person may be liable for resulting damages to the State. *Id.*

IV.

Respondent is a “person,” Tenn. Code Ann. § 68-201-102(7), and has violated the Act and Rules.

V.

“Air contaminant” means particulate matter, dust, fumes, gas, mist, smoke, vapor, or any combinations thereof. Tenn. Code Ann. § 68-201-102(1).

VI.

“Air contaminant source” means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Tenn. Code Ann. § 68-201-102(2). Respondent operates an air contaminant source.

FACTS

VII.

On January 30, 2018, the Technical Secretary issued Title V Major Source operating permit number 569782 (“Permit 569782”), (facility 43-0007), to Respondent for the Production of Titanium Dioxide Pigment. Permit 569782 was amended on February 23, 2018, and modified on September 21, 2018, and November 1, 2020.

VIII.

Condition E5-2(SM1) of Permit 569782 states, in pertinent part:

Particulate matter emitted from this source shall not exceed 0.025 grains of particulate matter per dry standard cubic foot of exhaust gas.

IX.

Condition E5-3 of Permit 569782 states, in pertinent part:

Sulfur dioxide emitted from this source (both ore roasters and the two natural gas-fired air heaters combined) shall not exceed 0.1 pounds per hour.

X.

Condition E5-4 of Permit 569782 states, in pertinent part:

Carbon monoxide (CO) emitted from this source (both ore roasters and the two natural gas-fired air heaters combined) shall not exceed 6.3 pounds per hour.

XI.

On February 13 - 15, 2020, Respondent voluntarily conducted performance testing of the ore roasters for internal research purposes. There was no source test protocol submitted to the Division for review due to the voluntary nature of the testing.

XII.

On April 19, 2021, the Division received via e-mail Respondent's results from the performance testing of the ore roasters for particulate matter, hydrogen chloride, chlorine, multi-metals, mercury, carbon monoxide, nitrogen oxides, and sulfur dioxide. Based on the Division's review of these results, the following violations were discovered:

- Sulfur Dioxide emissions from both roasters was 46.8 pounds per hour.
- Carbon Monoxide emissions from both roasters was 9.7 pounds per hour.

XIII.

On May 28, 2021, the Division issued a Notice of Violation to Respondent for the violations discussed in paragraph **XII**. As corrective action, Respondent was instructed in the NOV to submit a Proposed Schedule of Corrective Action (APC 115) detailing what actions Respondent planned to take to resolve this issue. On or about June 14, 2021, the Division received Respondent's APC 115, which indicated a performance test would be conducted in April 2022 with the results to be submitted to the Division in June 2022. The Division received Respondent's performance test report dated July 14, 2022.

XIV.

On February 24, 2021, the Division received an e-mail from Respondent indicating that a hole was discovered in the housing of the blower that feeds the wet scrubber.

XV.

On May 12, 2021, the Division received supplemental information from Respondent that indicated the hole did not qualify as a malfunction because it could have been prevented by more frequent maintenance.

XVI.

On May 24, 2021, the Division requested further information concerning the duration of the event listed in paragraphs **XIV** and **XV** and the last time the housing was inspected. Respondent indicated in a May 25, 2021, e-mail to the Division that a thorough inspection of the duct was conducted on February 22, 2021. Respondent suspected a maximum time frame of 48 hours of uncontrolled emissions could have been expected. In addition, Respondent indicated that the weighted average of the particulates emitted from the dryer exceeded the limit in condition E5-2(SM1) of Permit 569782 and 40 CFR Part 60, Subpart UUU of 0.025 grain per dry standard cubic foot (gr/dscf) at 0.0383 gr/dscf for a maximum duration of approximately 48 hours.

XVII.

On June 11, 2021, the Division issued a Notice of Violation to Respondent for the violation discussed in paragraph **XVI**.

VIOLATIONS

XVIII.

By failing to comply with conditions E5-2(SM1), E5-3, and E5-4 of Permit 570789, Respondent violated Tenn. Comp. R. & Regs. 1200-03-09-.02(6), which states, in pertinent part:

Operation of each air contaminant source shall be in accordance with the provisions and stipulations set forth in the operating permit, all provisions of these regulations, and all provisions of the Tennessee Air Quality Act.

ORDER AND ASSESSMENT OF CIVIL PENALTY

XIX.

1. Respondent is assessed a civil penalty of \$44,250.00 for violation of the Act and Rules, to be paid to the Department at the following address:

Treasurer, State of Tennessee

Division of Fiscal Services - Consolidated Fees Section
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 10th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

The civil penalty shall be delivered to the Department on or before the 31st day after receipt of this Order and Assessment of Civil Penalty. The case number, APC21-0097, should be clearly written on all correspondence.

2. Respondent shall adhere to the following corrective action for CO and SO₂ emissions as stated in condition S1-7 of construction permit number 979623:

In accordance with the proposed schedule of corrective action dated October 27, 2021, the permittee shall install and operate permanent facilities to add sodium hydroxide to the ore roaster scrubber. Installation, startup, and testing of the modified source shall be completed no later than November 1, 2023.

TAPCR 1200-03-09-.03(8)

Compliance Method: The permittee shall conduct or have conducted the test(s) necessary to determine the amount of CO and SO₂ emitted from this source within 60 days of startup of the modified source. The sulfur dioxide performance test shall be conducted, and data reduced in accordance with the methods and procedures specified in EPA Methods 6, 6A, 6B, or 6C as published in the current 40 CFR 60, Appendix A. The carbon monoxide performance test shall be conducted, and data reduced in accordance with the methods and procedures specified in EPA Methods 10, 10A, or 10B as published in the current 40 CFR 60, Appendix A. The permittee shall provide, at no expense to the Technical Secretary:

- (a) Sampling ports adequate for the applicable test methods
- (b) Safe sampling platform(s)
- (c) Safe access to sampling platform(s)
- (d) Utilities for sampling and testing equipment

Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under conditions specified in the applicable standard. For the purpose of determining compliance with the applicable standard, the arithmetic means of the results of the three runs shall apply. If a sample is lost or if one of the three runs must be discontinued due to circumstances beyond the permittee's control, compliance may, upon the Technical Secretary's approval, be determined using the arithmetic mean of the results of the two remaining runs.

The permittee shall notify the Technical Secretary in writing of their intention to conduct the performance test at least 30 days before the test date(s) to allow the Technical Secretary to have an observer present during the test. The permittee shall develop and submit a site-specific test plan for approval to the Technical Secretary at least 30 calendar days before the test date. The site-specific test plan shall include a test program summary, the test schedule, data quality objectives (pretest expectations of precision, accuracy and data completeness), and both an internal and external quality assurance program.

The permittee shall report the results of the performance test to the Technical Secretary within 60 days following the completion of the performance test. The report shall include the relevant process data (fuel type and usage, material input rate[s], production rate, etc. as appropriate) recorded during the test. The report shall be submitted to the compliance validation program at the address specified in Condition G3 of this permit.

TAPCR 1200-03-10-.01.

The Technical Secretary may, for good cause shown, extend the compliance dates contained within this Order and Assessment. To be eligible for this time extension, the Respondent shall submit a written request to the Department to be received in advance of the compliance date. The request must include sufficient detail to justify an extension and include, at a minimum, the precise cause of the delay, anticipated length of the delay, and all preventive measures taken to minimize the delay.

RESERVATION OF RIGHTS

In issuing this Order and Assessment of Civil Penalty, the Department does not implicitly or expressly waive any provision of the Act or Rules promulgated thereunder or the authority to assess costs, civil penalties, and/or damages incurred by the State against the Respondent. The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this order will be considered as a mitigating factor in determining the need for future enforcement action.

NOTICE OF RIGHTS

The Respondent may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-201-108(a) and 68-201-116(b). To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Technical Secretary within 30 days of the date Respondent

received this Order and Assessment or this Order and Assessment becomes final. Any petition for review must be directed to:

Commissioner of the Department of Environment and Conservation
c/o Jenny L. Howard, General Counsel
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 2nd Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing. Tenn. Code Ann. § 68-201-108(a); Tenn. Code Ann. § 4-5-301 to -325; Tenn. Comp. R. & Regs. 1360-04-01. Such hearings are legal proceedings in the nature of a trial. Individual respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial respondents (*e.g.*, corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

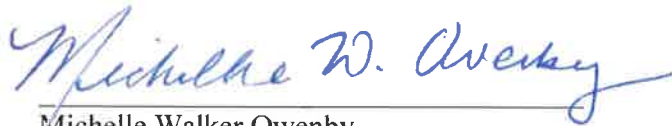
At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny this Order and Assessment of Civil Penalty, including the authority to increase or decrease the penalty. Tenn. Code Ann. § 68-201-116. The ALJ, on behalf of the Board, has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing, and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Technical questions and other correspondence involving compliance issues should be sent to:

Kevin McLain, Division of Air Pollution Control
Tennessee Department of Environment and Conservation
William R. Snodgrass Tennessee Tower, 15th Floor
312 Rosa L. Parks Avenue
Nashville, Tennessee 37243

Attorneys should contact the undersigned counsel of record. The case number, APC21-0097, should be written on all correspondence regarding this matter.

Issued by the Technical Secretary, Tennessee Air Pollution Control Board, Department of Environment and Conservation, on this 29th day of August, 2022.



Michelle Walker Owenby
Technical Secretary
Tennessee Air Pollution Control Board

Reviewed by:



Grant LeMaster Ruhl
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Department of Environment & Conservation
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