



west virginia department of environmental protection

Division of Water and Waste Management
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Harold D. Ward, Cabinet Secretary
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**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

TO: The Chemours Company FC, LLC
Michelle L. Young, CHMM
901 W. DuPont Avenue
Belle, WV 25015

DATE: January 22, 2024

ORDER NO.: 10243

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-11-1 et seq. to The Chemours Company FC, LLC (hereinafter "Chemours").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Chemours operates a facility located in Belle, Kanawha County, West Virginia. On May 22, 2015, WV/NPDES Water Pollution Control Permit No. WV0002399 was transferred to Chemours. The WV/NPDES permit was subsequently administratively extended. Among other provisions, the WV/NPDES permit authorizes Chemours to discharge treated process wastewater from Outlet No. 062 into the Kanawha River.
2. On May 25, 2023, Chemours provided WVDEP with notification of a new process that would be implemented and would affect the wastewater stream. The correspondence stated that Optima Belle, a tenant at the Chemours facility, intended to start the HMAPS production process, which would necessitate the acceptance of Optima Belle's wastewater at the Chemours wastewater treatment plant. Chemours represented that the HMAPS process involves the polymerization of styrene, with chain length mediated by hydrogen. As a result of the process, cyclohexane and ethylbenzene, which had not previously been included on Chemours' WV/NPDES permit application, would be discharged from Optima Belle before arriving at the headworks of the Chemours wastewater treatment plant. The letter further stated that there would be up to 3,000 gallons per day of routine process wastewater discharge through Outlet No. 062 due to

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the production of HMAPS, in addition to a small quantity of wastewater generated from floor and equipment washing. The correspondence also stated that cleaning process vessels at the end of the campaign would generate additional wastewater. Chemours represented that all wastewater would be discharged into the biological treatment system.

3. On November 14, 2023, Chemours requested entrance into a consent order with WVDEP which would allow the aforementioned process to be implemented until such time when the WV/NPDES permit is reissued.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Chemours shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Upon the effective date of this Order, WVDEP grants temporary approval for Chemours' acceptance of the wastewater stream from Optima Belle which is generated by the aforementioned HMAPS production process and for the subsequent discharge of the treated wastewater from Outlet No. 062. Temporary approval for acceptance of Optima Belle's wastewater shall expire upon reissuance of Chemours' WV/NPDES permit, at which time Chemours shall comply with all terms and conditions of the valid WV/NPDES permit. At no time shall the acceptance of Optima Belle's wastewater result in the violation of any WV/NPDES permit term/condition or pertinent law/rule.
3. Upon the effective date of this Order, Chemours shall be placed on the following limits until the reissuance of Chemours' WV/NPDES permit, at which time Chemours shall achieve compliance with all limits as detailed within the reissued WV/NPDES permit. All other parameter limits contained within the current WV/NPDES permit remain in full force and effect.

<i>Parameter</i>	<i>Average Monthly Limit</i>	<i>Max Daily Limit</i>	<i>Measurement Frequency</i>
Ethylbenzene	Report Only (mg/L)	0.46 mg/L	1/month
Cyclohexane	Report Only (mg/L)	0.45 mg/L	1/month

All sample results shall be electronically submitted with Chemours' required Discharge Monitoring Reports (DMRs) within twenty (20) days after the end of each monthly sampling period.

4. The temporary approval granted in Order for Compliance Item No. Two (2) is contingent upon compliance with the limits provided in Order for Compliance Item No. Three (3). Should any violation of the Ethylbenzene or Cyclohexane limits occur, Chemours shall immediately cease acceptance of the wastewater stream from Optima Belle's HMAPS production process.
5. This Order shall terminate upon the reissuance of WV/NPDES Water Pollution Control Permit No. WV0002399.

OTHER PROVISIONS

1. Chemours hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Chemours agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Chemours does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Chemours other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Chemours shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Chemours becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Chemours shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Chemours intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Chemours (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Chemours of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Chemours to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Chemours, its successors and assigns.

7. This Order shall terminate upon Chemours's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Michelle L. Young, CHMM Nichol Martin
The Chemours Company FC, LLC 1/24/24

1/24/24

Date

Public Notice begin:

Date

Public Notice end:

Date

Katheryn Emery, P.E., Director
Division of Water and Waste Management

Date