June 30, 2023

Chemours Company FC LLC
Attn: James W. Hollingsworth, Plant Manager
8480 Dupont Road – Bldg. 1
Washington, WV 26181

Dear Mr. Hollingsworth:

Enclosed is revised CONSENT ORDER NUMBER HW-23-004. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection’s (WVDEP) Environmental Enforcement unit in response to Chemours Company FC LLC violating WV State Code at the facility located in Washington, Wood County, West Virginia. This revision is based upon your recent e-mail discussions with WVDEP personnel. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Enclosure

cc: Katheryn Emery, P.E., Director, DWWM (via e-mail)
Joseph Sizemore, Assistant Chief Inspector, EE/HW and Tanks (via e-mail)
David C. Simmons, Assistant Chief Inspector, EE (via e-mail)
Laura McGee, Environmental Resources Program Manager, EE/HW (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)
John Killian, Environmental Inspector Supervisor, EE/HW (via e-mail)
Matthew T. Smith, Environmental Inspector Specialist, EE/HW (via e-mail)
Chad Longanacre, Environmental Inspector, EE/HW (via e-mail)
Erik Sims, Environmental Compliance Manager, Chemours Company (via e-mail)

Promoting a healthy environment.
CONSENT ORDER
ISSUED UNDER THE
HAZARDOUS WASTE MANAGEMENT ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 18

TO: Chemours Company FC LLC
James W. Holingsworth, Plant Manager
8480 Dupont Road – Bldg. 1
Washington, WV 26181

DATE: June 30, 2023
ORDER NO.: HW-23-004

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 Chapter 22, Article 18, Section 1 et seq. to Chemours Company FC LLC (hereinafter “Chemours”).

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

1. Chemours operates a chemical manufacturing plant located in Washington, Wood County, West Virginia and has been assigned EPA ID No. WVD045875291.

2. On July 28, 2022, Chemours submitted a letter requesting a thirty-day hazardous waste storage extension for multiple DOT Spec 51/T22 containers of 07TP hi-hi boiling fluorocarbon liquids hazardous waste (HHB), waste codes – D004 (arsenic), D007 (chromium) and D022 (chloroform). This request was due to a fire causing an extended, unplanned operational outage at the designated treatment, storage, and disposal facility (TSDF), Heritage – WTI in East Liverpool, OH and the lack of an alternative TSDF. The fire at the TSDF prevented the facility from accepting any waste until repairs and reconstruction could be completed. The TSDF expected to make repairs to resolve the outage by September 2022. Chemours anticipated the incinerator at the Heritage TSDF to be offline for six (6) months.

Promoting a healthy environment.
3. On August 5, 2022, Chemours submitted a thirty-day storage extension request for distillate tanker #DT-350, which held HHB hazardous waste. The waste in this container was transferred from some of the containers referenced in the July 28, 2022 letter.

4. On August 9, 2022, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility to discuss the extension request and observe the current storage and management of the HHB waste. No violations of the applicable regulations were observed.

5. On August 12, 2022, an extension request approval was sent to Chemours for container #DT-350 by the WVDEP.

6. On August 18, 2022, an extension request approval was sent to Chemours for containers DOT Spec 51 #1 and T22 #6 by the WVDEP.

7. On August 19, 2022, Chemours submitted an inventory update and management plan for the HHB waste on-site.

8. On August 22, 2022, Chemours submitted a thirty-day storage extension request for container T22 #5, which held HHB waste.

9. On August 25, 2022, Chemours submitted an exception report for two manifests – 019385191JJK and 019385162JJK. These manifests were for two tank trucks of HHB waste that were shipped to the TSDF on June 15, 2022. These shipments occurred just prior to the extended, unplanned operational outage at the TSDF.

10. On August 26, 2022, an extension request approval was sent to Chemours for container T22 #5 by the WVDEP.

11. Chemours continued to submit storage extension requests and receive approvals for September through December of 2022. Chemours also began to consolidate the HHB waste into railcars from the smaller DOT containers.

12. On December 15, 2022, WVDEP personnel conducted an inspection of the facility to discuss the extension request and observe the current storage and management of the HHB waste. No violations of the applicable regulations were observed.

13. On January 5, 2023, Chemours submitted an inventory update and management plan for the HHB waste on-site. The incinerator was back online and began to accept HHB waste on December 12, 2022.

14. Chemours was able to consolidate all the remaining excess waste into two railcars (CMRX 20501 and TILX 401585). They continued to submit and receive approval for storage extension requests through May 2023. Chemours anticipates it will take seven (7) months to empty railcar TILX 401585 and eleven (11) months to empty railcar CMRX 20501.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code Chapter 22, Article 18, Section 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 pertinent laws and rules.

2. Chemours may continue to accumulate hazardous waste 07TP hi-hi boiling fluorocarbon liquids waste (HBB), waste codes – D004 (arsenic), D007 (chromium) and D022 (chloroform) at the facility beyond the ninety (90) day limit prescribed at 40 CFR 262.17(a). The waste shall be accumulated in two specific containers – CMRX 20501 railcar and TILX 401585 railcar. All other applicable large quantity generator requirements and permit terms and conditions remain in full force and effect.

3. Chemours shall have until April 30, 2024 to complete the emptying of the two (2) railcars – namely, railcars TILX 401585 and CMRX 20501. If Chemours should experience any further delays, Chemours must contact WVDEP to request an extension pursuant to “Other Provisions” No. Three (3) of this Order.

4. Upon the effective date of this order and until such time as the aforementioned waste is properly shipped from the Chemours location, written updates addressing the accumulation status, amount on hand, and disposal activities of the waste shall be submitted to the WVDEP no later than the last day of each quarter, starting with the third (3rd) quarter of 2023.

5. Within three (3) days of the last shipment of waste subject to this order, Chemours shall submit a final update informing the WVDEP that all the waste has been shipped to a permitted TSDF.

All documents required by this order shall be submitted to the following address:

Chief Inspector
Environmental Enforcement – Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304

OTHER PROVISIONS

1. Chemours hereby waives its right to appeal this Order under the provisions of West Virginia State Code Chapter 22, Article 18, Section 20. 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 issues 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’ notification of full compliance with the “Order for Compliance” and verification of this notification by WVDEP.

James W. Hollingsworth, Plant Manager
Chemours Company FC LLC

[Signature]

Date

Public Notice begin:

Date

Public Notice end:

Date

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

Date