



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

89 KINGS HIGHWAY
DOVER, DELAWARE 19901

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**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. § 6005

Order No. 2012-A-0046

*PERSONALLY SERVED BY AN ENVIRONMENTAL
ENFORCEMENT OFFICER*

Issued To:

DuPont Edge Moor Plant
Attn: Ms. Elizabeth A. Schowe, Plant Manager
104 Hay Road
Wilmington, DE 19809

Registered Agent:

E.I. DuPont De Nemours and Company
DuPont Building
1007 Market Street, Room 8042
Wilmington, DE 19898

Dear Ms. Schowe:

This is to notify DuPont Edge Moor Plant ("Respondent") that the Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Respondent in violation of 7 Del. C. Chapter 60 and accordingly, the Department is issuing this Notice of Administrative Penalty Assessment pursuant to 7 Del. C. § 6005(b)(3).

BACKGROUND

Respondent owns and operates a facility located at 104 Hay Road in Wilmington, Delaware ("Facility") where it manufactures titanium dioxide, a white pigment that is used in the paint and paper industries. Respondent's Facility includes numerous emission units and control devices, among them the Ore Roaster ("RX-1") which has two cyclonic dust collectors and two baghouse filters used to control particulate matter emissions from the unit. Operations at Respondent's Facility have the potential to emit numerous pollutants, including particulate matter less than 10 microns in diameter ("PM₁₀"), in quantities in excess of the major thresholds for New Castle County, thereby triggering 7 DE Admin. Code 1130, Delaware's Title V State Operating Permit Program ("Regulation 1130" or "Title V") requirements and fees. The Department issued **Permit: AQM-003/00010 (Renewal 2)** ("Title V Permit-R2") to Respondent with an effective date of June 11, 2010.

Delaware's Good Nature depends on you!

Respondent's Title V Permit R2 has since undergone two revisions. The first, ("Title V Permit-R2-Rev 1") issued March 23, 2011, was to change Respondent's Responsible Official. The second, ("Title V Permit-R2-Rev 2") issued March 7, 2012, was to incorporate two boilers. At the time of the violations set forth in this Order, Respondent was operating under Title V Permit-R2-Rev 1 (hereinafter referred to as "Title V Permit").

On August 17, 2011, Respondent observed opacity from the RX-1 stack and began conducting Reference Method 9 opacity readings which showed opacity levels at greater than 20% for more than 3 minutes. Respondent immediately notified the Department as required via the Department's hotline. Adjustments were made to operating parameters in an effort to reduce the opacity. When that failed, the system was shut down and inspected to determine the cause. It was determined that bags in the RX-1 baghouse system had holes in them that allowed the release of particulate matter causing opacity at levels that exceeded regulatory and permit limits.

Respondent submitted an initial incident report on August 23, 2011, and a final incident report on October 5, 2011. Respondent's investigation revealed that the East and West bag filters had holes in around 8-12 bags. The investigation determined that the holes in the filter assembly (venturis and bag filters) were formed by abnormal pulser/blow piping air flow direction. Upon further investigation it was found that some of the shots of air used to pulse the bags were being angled at the filter assembly instead of the middle of the bag causing wear leading to the holes and bag failure. It can be noted that the bag filters were due to be changed out by August 15, 2011, pursuant to a preventive maintenance plan ("PMP"). However, the schedule for this change out was entered in a system used to track the PMP that did not send out a notification of the impending change out requirement in enough time to allow for scheduling the maintenance. To address these factors, the scheduling within the tracking systems was adjusted to allow for notification further in advance. In addition, change out of the pulser/blow piping was added to the PMP.

A Notice of Violation was issued to Respondent on October 27, 2011, for the violations associated with this incident.

FINDINGS OF FACT

1. Operation of equipment at Respondent's Facility has the potential to emit pollutants, such as PM₁₀, in quantities that trigger Title V requirements and fees.
2. The Department has issued a Title V Permit to Respondent for its Facility, and the Title V Permit includes permit conditions pertinent to the control of particulate matter emissions from the Facility in addition to setting opacity limits.
3. Respondent experienced opacity levels greater than 20% for more than 3 minutes on August 17, 2011, from the Ore Roaster ("RX-1") stack, a violation of regulatory and permit limits. This was due to holes in the bags of the baghouse system which resulted in the release of particulate matter. Opacity levels on August 17, 2011, ranged between 5% – 70% for approximately 93 minutes.
4. A Notice of Violation was issued to Respondent on October 27, 2011.

REGULATORY AND PERMIT PROVISIONS

1. Section 2.1 of 7 DE Admin. Code 1114 states in part:

“No person shall cause or allow the emission of visible air contaminants or smoke from a stationary or mobile source, the shade or appearance of which is greater than 20% opacity for an aggregate of more than three minutes in any one hour or more than 15 minutes in any 24 hour period...”

2. Condition 3-Table 1(a)(2)(i)(B) of **Permit: AQM-003/00010 (Renewal 2) (Revision 1)** states:

“The exhaust from this emission unit shall not have a shade or appearance of which is greater than 20% opacity for an aggregate of more than three minutes in any one hour or more than 15 minutes in any 24 hour period.”

CONCLUSION

Based on the above, the Department has concluded that Respondent committed the following violations:

1. Respondent violated Section 2.1 of 7 DE Admin. Code 1114 and Condition 3-Table 1(a)(2)(i)(B) of **Permit: AQM-003/00010 (Renewal 2) (Revision 1)** when it experienced opacity levels of greater than 20% for more than three minutes on August 17, 2011 as a result of holes in the bags of the Ore Roaster baghouse system.

ASSESSMENT OF PENALTY

Pursuant to the provisions of 7 Del. C. § 6005(b)(3), this is written notice to Respondent that on the basis of its findings, the Department is assessing Respondent an administrative penalty of \$7,000 for the violations identified in this Assessment and Order and costs according to 7 Del. C. § 6005(c). Respondent shall submit a check to the Department in the amount of \$7,000 within 30 days from the receipt of this Assessment and Order for the aforementioned penalty. The check shall be made payable to the “State of Delaware” and shall be directed to: Valerie M. Satterfield, Deputy Attorney General, Department of Justice, Environmental Unit, 102 W. Water Street-3rd Floor, Dover, Delaware 19904.

PUBLIC HEARING

This Administrative Penalty Assessment and Order shall become effective and final unless the Department receives from Respondent, no later than 30 days from the receipt of this Notice, a written request for a public hearing on these matters as provided in 7 Del. C. § 6005(b)(3) and (c). In the event Respondent requests a hearing, the Department reserves the right to withdraw this Assessment and Order and take additional enforcement

actions regarding these and other violations at Respondent's facility, including but not limited to, the imposition of civil penalties and recovery of the Department's costs and attorney's fees. The Department does not otherwise intend to convene a public hearing on these matters, but reserves the right to do so at its discretion.

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$7,000 and the Department's estimated costs in the amount of \$1,050 in the manner described in the attached waiver. By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest the Assessment which shall become a final Order.

If you have any questions, please contact Paul Foster at (302) 323-4542.

12/4/12
Date


Collin P. O'Mara, Secretary

cc: Valerie M. Satterfield, Deputy Attorney General
Ali Mirzakhali, P.E., Director
Paul Foster, P.E., Program Manager
Tammy Henry, Managing Engineer
Shaikh Tayeb, Engineer
Dawn Minor, Paralegal
Jenny Bothell, Enforcement Coordinator
Dover File

WAIVER OF STATUTORY RIGHT TO A HEARING

DuPont Edge Moor Plant hereby waives its right to a hearing and its opportunity to appeal or contest this Assessment and Order and agrees to the following:

1. **DuPont Edge Moor Plant** will pay the administrative penalty in the amount of \$7,000 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Valerie M. Satterfield, Deputy Attorney General, Department of Justice, 102 W. Water Street-3rd Floor, Dover, DE 19904; and
2. **DuPont Edge Moor Plant** will reimburse the Department in the amount of \$1,050 which represents the Department's estimated costs. The reimbursement shall be paid within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Valerie M. Satterfield, Deputy Attorney General, Department of Justice, 102 W. Water Street-3rd Floor, Dover, DE 19904.

DuPont Edge Moor Plant

Date: _____

By: _____

Title: _____