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COUNCIL

August 13, 2020

**SUBMITTED VIA EMAIL AND
DNREC ONLINE PORTAL**

Department of Natural Resources and Environmental Control

Attn: Lisa Vest

Hearing Officer

The Richardson & Robbins Building

89 Kings Highway, Dover, DE 19901

lisa.vest@delaware.gov

DNRECHearingComments@delaware.gov

<https://dnrec.alpha.delaware.gov/public-hearings/comment-form/>

RE: Supplemental submission regarding Application of Croda, Inc. for a Construction Permit, Docket # 2020-P-A-0018

Dear Ms. Vest:

This letter shall serve to supplement the earlier submission by the undersigned dated July 16, 2020 regarding the application of Croda, Inc. ("Croda") for a construction permit. Specifically, in addition to previously-communicated concerns relating to Croda's permit application, we believe that the proposed additional emissions that would result if the permit were granted should be addressed with specificity.

The Route 9 Corridor has known cancer clusters that have existed for a long time. The Department of Natural Resources and Environmental Control ("DNREC") has been aware of this for years. As discussed below, there is reason to believe that the health issues in this area are directly related to the heavy industry that is in close proximity to the surrounding residential communities.

Furthermore, the number of COVID-19 cases in the Route 9 Corridor has been markedly higher than other areas in our State. At one point, the Corridor was a potential hot spot for the State of Delaware. The underlying health conditions of residents, as a result of industrial pollution, made these residents the most vulnerable and susceptible to the current pandemic. As such, additional emissions in the Corridor have the potential of being catastrophic and deadly.

Among other compelling reasons, DNREC should not allow additional emissions at this time due to the potentially devastating impact of the pandemic. Instead, DNREC, in conjunction with State health officials, at a minimum should compel heavy industry to reduce emissions during the pandemic.

As you are aware, the undersigned previously shared their concerns that Croda's operations posed a very serious threat to the well-being of the surrounding communities, and that Croda is ill-prepared to respond to any emergency at its plant. This fact was borne out with the release of ethylene oxide and the inadequate response thereto by Croda in November, 2018. In spite of this release and Croda's woefully insufficient response, Croda now provides assurances that this was a thing of the past and it has remedied its shortcomings with a functioning emergency warning system. This is not the case. Croda's emergency warning system was tested on August 11, 2020. It failed.

The concerns we have regarding the health threat to our constituents posed by Croda's proposed increase in emissions, especially ethylene oxide, does not come out of thin air. Indeed, the health concerns we have are supported by none other than the U.S. Environmental Protection Agency ("EPA"). Moreover, the EPA's 2014 National Air Toxics Assessment (released August 22, 2018), based on the updated cancer risk value for ethylene oxide, identified ethylene oxide as a significant driver of cancer risk in the New Castle area. As DNREC is well aware, this is the very same area in which Croda operates and proposes to increase its production and emissions of ethylene oxide.

As further evidence of the health threat (especially to New Castle, Delaware) posed by an expansion of ethylene oxide production at Croda's site, which would result if DNREC were to approve the permit application, we attach two documents that are incorporated by reference and we are submitting into the record: (1) *Communities at Risk from Air Toxics – Deeper Analysis of NATA Results and Tool for a Path Forward A&WMA's 112th Annual Conference & Exhibition Québec City, Québec June 25–28, 2019*; and (2) *Report: Management Alert - Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns*, Report #20-N-0128, March 31, 2020.

Finally, the EPA's Office of Inspector General recommended in March, 2020 that the EPA promptly provide residents in all communities near the 25 high-priority ethylene oxide-emitting facilities, which includes New Castle, Delaware, with a forum for an interactive exchange of information with EPA *or state personnel* regarding health concerns related to exposure to ethylene oxide. The EPA apparently has chosen as yet not to follow this recommendation. Nonetheless, pursuant to the OIG's recommendation, we are hereby requesting that DNREC promptly schedule a public forum to provide for such exchange of information with the public.

Very Truly Yours,

/s/ Jea Street
Councilman Jea Street

/s/ David Carter
Councilman David Carter

/s/ Penrose Hollins
President Pro Tempore
Penrose Hollins

/s/ George Smiley
Councilman George Smiley

/s/ Karen Hartley-Nagle
Council President Karen
Hartley-Nagle

/s/ Dee Durham
Councilwoman Dee Durham

/s/ Michael P. Migliore, Esq.
Michael P. Migliore



U.S. ENVIRONMENTAL PROTECTION AGENCY

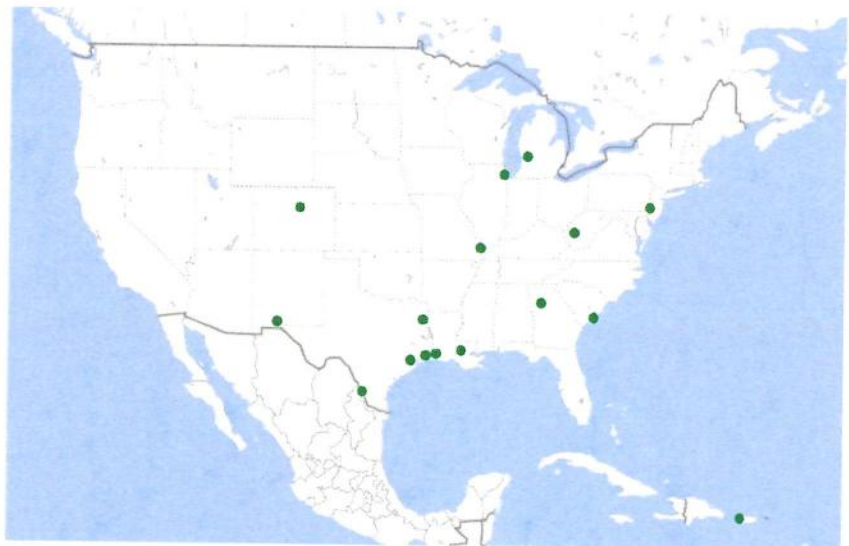
OFFICE OF INSPECTOR GENERAL

Improving air quality

Management Alert: Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns

Report No. 20-N-0128

March 31, 2020



Report Contributors:

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Abbreviations

EPA U.S. Environmental Protection Agency
NATA National Air Toxics Assessment
OIG Office of Inspector General

Cover Image: Metropolitan areas in the United States where there is at least one census tract in which ethylene oxide is a significant risk driver for cancer. (OIG-developed image based on the 2014 NATA and information from the EPA)

Are you aware of fraud, waste, or abuse in an EPA program?

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At a Glance

Why We Did This Project

While conducting an audit of the U.S. Environmental Protection Agency's actions to address air toxics emissions through its residual risk and technology review program, the EPA's Office of Inspector General identified an urgent matter related to whether the EPA had informed the public about health risks from exposure to ethylene oxide emissions. Therefore, we are issuing this management alert so that the EPA can address this matter while our overall audit work continues.

Ethylene oxide is a gas used to make other chemicals that are needed to manufacture a variety of products and to sterilize medical equipment. Studies show that breathing in elevated ethylene oxide levels over many years can lead to lymphoid cancers in males and females and breast cancer in females. In December 2016, the EPA revised its characterization of the chemical to "carcinogenic to humans."

This report addresses the following:

- Improving air quality.

Address inquiries to our public affairs office at (202) 566-2391 or [OIG WEBCOMMENTS@epa.gov](mailto:OIG_WEBCOMMENTS@epa.gov).

List of [OIG reports](#).

Management Alert: Prompt Action Needed to Inform Residents Living Near Ethylene Oxide-Emitting Facilities About Health Concerns and Actions to Address Those Concerns

What We Found

Through its National Air Toxics Assessment, the EPA identified areas where exposure to ethylene oxide emissions could contribute to an elevated estimated lifetime cancer risk equal to or greater than 100 in one million, a risk level that the EPA generally considers not sufficiently protective of health. These emissions primarily come from chemical manufacturing plants and commercial sterilizers that sterilize medical equipment.

The EPA needs to inform residents who live near facilities with significant ethylene oxide emissions about their elevated estimated cancer risks so they can manage their health risks.

The EPA has prioritized activities to more fully assess ethylene oxide emissions and the associated health risks to the public near 25 high-priority facilities. These activities include communicating with facilities and states about gathering emissions information and communicating with elected officials about the National Air Toxics Assessment results. While the EPA or state personnel, or both, have met with residents living near nine of the 25 high-priority facilities, communities near 16 facilities have yet to be afforded public meetings or other direct outreach to learn about the health risks and actions being taken to address those risks.

The OIG did not identify any specific statutory, regulatory, or policy requirements for the EPA to provide the public additional information regarding its preliminary determination that certain ethylene oxide-emitting facilities may present health risks to surrounding communities. However, the EPA's mission statement includes working to ensure that "[a]ll parts of society ... have access to accurate information sufficient to effectively participate in managing human health and environmental risks." Thus, the Agency should work to ensure that the health risks and actions that the EPA is taking to address those risks are directly and promptly communicated to residents living near all the high-priority facilities.

Recommendations and Planned Agency Corrective Actions

We recommend that the Agency provide residents in all communities near the 25 high-priority ethylene oxide-emitting facilities with a forum for an interactive exchange of information with EPA or state personnel regarding health concerns related to exposure to ethylene oxide. In its response to our draft report, the Agency proposed an alternative recommendation with corrective actions that focused on completing more refined investigations of risk prior to conducting significant public outreach. We do not believe that the Agency should delay providing forums for interactive outreach with residents in these communities. Therefore, our recommendation is unresolved pending receipt of an acceptable corrective action plan with milestones from the EPA.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

March 31, 2020

MEMORANDUM

SUBJECT: Management Alert: Prompt Action Needed to Inform Residents
Living Near Ethylene Oxide-Emitting Facilities About Health Concerns
and Actions to Address Those Concerns
Report No. 20-N-0128

FROM: Sean W. O'Donnell

A handwritten signature in blue ink, reading "Sean W. O'Donnell", is written over the printed name.

TO: Doug Benevento, Associate Deputy Administrator

While conducting an audit of the U.S. Environmental Protection Agency's actions to address air toxics emissions through its residual risk and technology review program ([Project No. OA&E-FY19-0091](#)), the EPA's Office of Inspector General identified an urgent matter to report to the Agency. The OIG is alerting you to this matter because of the disparity in the extent and nature of communication between the EPA and impacted communities where the EPA has identified significant health risks to the public from ethylene oxide emissions. This report presents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The EPA's Office of Air Quality Planning and Standards, within the Office of Air and Radiation, and EPA Regions 2-8 are responsible for the issues discussed in this report. Due to the significance of the issues and the involvement of multiple offices, the report is addressed to the associate deputy administrator.

Action Required

This report contains an unresolved recommendation. In accordance with EPA Manual 2750, the resolution process begins immediately with the issuance of this report. We are requesting a meeting within 30 days between the associate deputy administrator and the OIG's assistant inspector general for Audit and Evaluation. If resolution is still not reached, the Office of the Administrator is required to complete and submit a dispute resolution request to the chief financial officer.

We will post this report to our website at www.epa.gov/oig.