

ROY COOPER
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ELIZABETH S. BISER
Secretary

MICHAEL A. ABRACZINSKAS
Director



NORTH CAROLINA
Environmental Quality

CERTIFIED MAIL RETURN RECEIPT REQUESTED
7019 2280 0000 6513 9290

October 1, 2021

Ms. Dawn Hughes, Plant Manager
Chemours Company - Fayetteville Works
22828 NC Highway 87 West
Fayetteville, NC 28306

SUBJECT: Civil Penalty Assessment for Violation(s)
2Q .0519 Termination, Modification, Revocation of Permits
NCGS 143-215.108A Control of sources of air pollution; construction of new facilities; alteration or expansion of exis
File No.: DAQ 2021-057
Violator: Chemours Company - Fayetteville Works
County: Bladen
Facility ID: 0900009

Dear Ms. Hughes:

This letter transmits notice of civil penalty assessed against Chemours Company - Fayetteville Works in the amount of \$305,000 and \$611 investigative costs, for a total of \$305,611.

Enclosed is a copy of the assessment document explaining this penalty. This action was taken under the authority vested in me by the delegation pursuant to North Carolina General Statutes (NCGS) 143-215.114A(d). Any new or continuing violation(s) may be the subject of a new enforcement action, including additional penalty.

You must take one of the three actions outlined below within thirty (30) days from the date of receipt of this letter. Please be advised that if you fail to exercise one of the following options within thirty (30) days, you will lose your right to appeal or contest this case and your case will be forwarded to the Attorney General's Office for collection.

1. Submit payment of the penalty:

Payment should be made directly to the order of the North Carolina Department of Environmental Quality (NCDEQ). When submitting payment, please reference your DAQ case number on your check to insure proper posting. Please do not include the attached waiver form when submitting payment. Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:



North Carolina Department of Environmental Quality | Division Air Quality
217 West Jones Street, Suite 4000 | 1641 Mail Service Center | Raleigh, NC 27699-1641
919.707.8400 T

Enforcement Group - Payment
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

Please be advised, that it is the policy for NCDEQ to charge and collect a processing fee of \$25.00 for checks on which payment has been refused by the bank because of insufficient funds or because of an invalid bank account.

OR

2. Submit a written request for remission including a detailed justification for such request:

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) were wrongfully applied to the detriment of the violator;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator has been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. **If you choose this option, do not send in payment at this time.** The Director of the Division of Air Quality (DAQ) will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "*Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts*" form within thirty (30) days of receipt of this notice. The DAQ also requests that you complete and submit the enclosed "*Justification for Remission Request*." Both forms should be submitted to the following address:

Enforcement Group - Remission
Department of Environmental Quality
Division of Air Quality
1641 Mail Service Center
Raleigh, NC 27699-1641

OR

3. File a petition for an administrative hearing with the Office of Administrative Hearings:

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings (OAH). You must file the petition with the OAH within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The OAH accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for official state holidays. The petition may be filed by facsimile (fax) or electronic mail by an attached file (with restrictions) - provided the signed original, one (1) copy and a filing fee (if a filing fee is required by NCGS §150B-23.2) is received in the OAH within seven (7) business days following the faxed or electronic transmission. You should contact the OAH with all questions regarding the filing fee and/or the details of the filing process. The mailing address, telephone number, and facsimile number for the OAH are as follows:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919) 431-3000 Facsimile: (919) 431-3100

A copy of the petition must also be served on NCDEQ as follows:

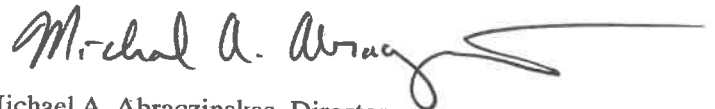
William F. Lane, General Counsel
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

Please indicate the DAQ case number, as found on Page 1 of this letter, on your petition to OAH.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed if the violations that are the subject of this action have not been corrected.

If you have any questions concerning this matter, please contact Thaochi Vu at 919-707-8433.

Sincerely,



Michael A. Abraczinskas, Director
Division of Air Quality, NCDEQ

Enclosures: Assessment Document

cc: Heather Carter, Regional Supervisor Fayetteville Regional Office
Enforcement File (DAQ 2021-057)

STATE OF NORTH CAROLINA

NORTH CAROLINA
DEPARTMENT OF
ENVIRONMENTAL QUALITY

COUNTY OF BLADEN

IN THE MATTER OF:
CHEMOURS COMPANY –
FAYETTEVILLE WORKS

CASE NUMBER 2021-057

FOR VIOLATION OF:
Specific Limitation and Condition 2.2.D.1
and General Condition 3.F

CIVIL PENALTY ASSESSMENT

Acting pursuant to North Carolina General Statutes (G.S.) 143-215.114A, I, Michael A. Abraczinskas, Director of the Division of Air Quality (DAQ), make the following:

I. FINDINGS OF FACT:

- A. Chemours Company – Fayetteville Works (Chemours), is a chemical manufacturing facility operating at 22828 NC Highway 87 West, Fayetteville, Bladen County, North Carolina. The facility consists of six individual manufacturing plants, a boiler house and a waste treatment operation.
- B. Chemours is classified and permitted as a Title V facility. The current permit at the time the violation was discovered was Air Permit No. 03735T48, which was issued on 13 May 2020. The effective date of the permit was 12 July 2020, with an expiration date of 31 March 2021.
- C. Since 2017, the North Carolina Department of Environmental Quality (DEQ) has led a State investigation into environmental contamination caused by GenX and other per- and polyfluoroalkyl substances (PFAS) in the Cape Fear region. DEQ found that much of the contamination of groundwater in this region, including private drinking water wells, was linked to air emissions from the facility.
- D. DEQ’s investigation resulted in an enforcement action in Bladen County Superior Court, in which DEQ sought injunctive relief requiring Chemours to cease and abate its violations of North Carolina’s surface waters and groundwater laws, including violations of North Carolina’s groundwater rules caused by Chemours’ emissions of PFAS into the atmosphere.
- E. Sampling of private drinking water wells has resulted in the detection of PFAS compounds originating from the Chemours facility at a distance of over 17 miles from the facility. More than 5000 private drinking water wells have been contaminated with

PFAS originating from the facility, with over 250 wells contaminated by GenX at levels that exceed the 140 ng/L, the health goal established by the North Carolina Department of Health and Human Services.

- F. On February 25, 2019, the Superior Court entered a Consent Order requiring Chemours to, among other things, reduce facility-wide annual air emissions of GenX Compounds by at least 99% from 2017 Total Reported Emissions. The Consent Order further provided that this requirement, or a more stringent one, would be incorporated into an Air Quality permit issued by DAQ.
- G. As contemplated by the Consent Order, Permit 03735T48, Specific Limitation and Condition 2.2.D.1, requires in part that “[T]he Permittee shall reduce facility-wide annual emissions (including fugitive, maintenance, malfunction, or accidental emissions) of GenX Compounds to less than 23.027 pounds per year, which constitutes a 99 percent reduction from the 2017 Total Reported Emissions of 2,302.7 pounds per year.”
“...Permittee shall demonstrate compliance with the GenX Compounds emission limit of 23.027 pounds per year by calculating annual emissions each calendar month for the previous 12 months.”
- H. On 28 April 2021, Chemours submitted a “Title V Plant-Wide 1Q21 Continuous Compliance Report,” which summarized facility-wide GenX emissions through March 2021. Upon review of this report, DAQ determined that the methodology employed by Chemours to calculate its annual GenX emissions was not appropriate.
- I. On 29 June 2021, the facility was directed by DAQ to recalculate and submit GenX emission estimates for the period beginning January 2020.
- J. On 15 July 2021, DAQ received the recalculated emissions report from Chemours. The report documented facility-wide emissions of GenX for each month and for each 12-month period beginning in January 2020 through June 2021. The data provided documents that Chemours exceeded the permitted facility-wide annual GenX compounds limit of 23.027 pounds per year for the 12-month periods ending in March, April, May, and June 2021. The data provided in the report also established that Chemours would remain in noncompliance for the months of July, August and September.¹ The data provided indicates that the primary contributor to excess emissions at the facility was emissions from Vinyl Ethers North indoor fugitive emissions processes as documented in a stack test conducted on March 9, 2021.
- K. Permit 03735T48, General Condition 3.F, states: “*The facility shall be properly operated and maintained at all times in a manner that will effect an overall reduction in air*

¹ The report also indicates that noncompliance may also persist into the future beyond the date of this Civil Penalty Assessment. In Chemours’ NOV/NRE response, Chemours acknowledges as much, stating that “[b]ecause of the 12-month rolling calculation, the calculated annual emissions may not return to below 23.027 pounds until approximately March 2022.” Any period of noncompliance that occurs subsequent to this Civil Penalty Assessment will be addressed through a separate action as appropriate.

pollution. Unless otherwise specified by this permit, no emission source may be operated without the concurrent operation of its associated air pollution control device(s) and appurtenances.”

- L. A Notice of Violation / Notice of Recommendation of Enforcement (NOV/NRE) was issued to the facility on 26 August 2021, citing the following violations: failure to reduce facility-wide annual emissions of GenX Compounds to less than 23.027 pounds per year and failure to properly operate and maintain Carbon Adsorber ID No. NCD-Q3. The NOV/NRE asked for a written response by 10 September 2021 providing, among other things, a detailed timeline of events leading to the excess emissions as well as a detailed plan of action to return to compliance with the cited requirement and the date by which compliance is anticipated.
- M. On 10 September 2021, DAQ Fayetteville Regional Office received Chemours’ response to the NOV/NRE. The response from the facility indicated that *“Chemours has identified fine particles (“fines”) from the Agitated Bed Reactor (“ABR”) as the main contributing factor to the excess emissions in March 2021 from the Vinyl Ethers North indoor air Carbon Adsorber unit. These fines appear to have passed through the filters into the unit and then caused blockages in the carbon and carbon adsorber screens, reducing carbon treatment efficiency sooner than expected.”* The response further stated that *“On February 17 and 18, 2021, the feed line to the ABR became plugged, resulting in maintenance being performed on the unit and additional fines inside the Vinyl Ethers North building.”*
- N. According to the NOV/NRE response letter, *“Chemours promptly changed the carbon in the Vinyl Ethers North indoor air Carbon Adsorber unit on 6 April 2021, following the receipt of the March testing results, and then changed the carbon again on 5 May 2021 (between production campaign change from PSEPVE to PPVE.”* *“...Testing on 17 May 2021 showed that GenX Compounds emissions from the Carbon Adsorber unit had returned to their usual lower levels.”*
- O. Based on the information reviewed by DAQ as part of its investigation, including the stack test results and the NOV/NRE response, at a minimum, the Carbon Adsorber Unit was not properly operated or maintained from the date of the stack test (9 March 2021) until the date of the change out of the carbon in the Carbon Adsorber unit (6 April 2021). The total operating day during this time period is 26 days. In addition, due to the fact that the feed line became plugged on 17 February 2021 and 18 February 2021, the period of improper operation of the Carbon Adsorber leading to excess emissions may have been longer.
- P. According to the NOV/NRE response letter, *“Chemours has developed a series of actions to implement for continued, longer-term improvements for treating indoor air emissions from Vinyl Ethers North.”* Chemours has implemented or plans to implement the actions shown in the table below:

Planned Action	Anticipated Timing
Upgrade ABR Room Filter and Elements – to reduce fines in VEN building	Completed 9 September 2021
Increase use of Helium Testing – for leak identification	Completed 9 September 2021
Upgrade Control Valves with Bellows Packing – for leak reduction	October 2021 facility turnaround (“TAR”)
Replace Manual Valves with Low Emissions Packing – for leak reduction	October 2021 TAR and first half 2022
Receipt of FLIR Cameras – for leak identification	first half 2022
Install Differential Pressure Readings on Filters in Carbonate Service – to monitor for filter changes	first half 2022
Replace Carbonate Exhaust Blower Filter – to reduce fines in VEN building	second half 2022
Replace ABR Bag Filter – to reduce fines in VEN building	second half 2022
Replace Tubing with Hard Pipe – for leak reduction	second half 2022
Replace Threaded Connections with Flanged Connections – for leak reduction	second half 2022

Q. Air Quality Enforcement History.

04/17/2020 – NOV issued for failure to maintain the scrubbing liquid flowrate at greater than 2.9 gallons per minute.

R. The costs of investigation or inspection in this matter totaled \$611.

Based upon the above Findings of Fact, I make the following:

II. CONCLUSIONS OF LAW:

- A. Chemours Company – Fayetteville Works, was in violation of Specific Limitation and Condition 2.2.D.1 for failure to reduce facility-wide annual emissions of GenX Compounds to less than 23.027 pounds per year.
- B. Chemours Company – Fayetteville Works, was in violation of General Condition 3.F, for failure to properly operate and maintain Carbon Adsorber ID No. NCD-Q3.
- C. G.S. 143-215.114A provides that a civil penalty of not more than twenty-five thousand dollars per violation may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by NCGS 143-215.108 or who violates any regulation adopted by the

Environmental Management Commission.

- D. G.S. 143-215.3(a)(9) provides that the costs of any investigation or inspection may be assessed against a person who violates or fails to act in accordance with the terms, conditions, or requirements of a permit required by G.S. 143-215.108 or who violates any regulation adopted by the Environmental Management Commission.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION:

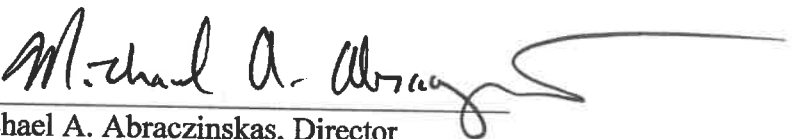
Chemours Company – Fayetteville Works is hereby assessed a civil penalty of:

\$ <u>175,000.00</u>	For seven (7) violations of Specific Limitation and Condition 2.2.D.1 for failure to reduce facility-wide annual emissions of GenX Compounds to less than 23.027 pounds per year (12-month periods) ending in March 2021 through September 2021
\$ <u>130,000.00</u>	For twenty-six (26) violations of General Condition 3.F, for failure to properly operate and maintain Carbon Adsorber ID No. NCD-Q3 from 3/9/2021 to 4/5/2021
\$ <u>305,000.00</u>	TOTAL CIVIL PENALTY , which is <u>37</u> percent of the maximum penalty authorized by G.S. 143-215.114A.
\$ <u>611</u>	Investigation costs.
\$ <u>305,611.00</u>	<u>TOTAL AMOUNT DUE</u>

Pursuant to G.S. 143-215.114A in determining the amount of the penalty, I considered the factors listed in G.S. 143B-282.1(b) and 15A NCAC 02J .0106, which are the following:

- 1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation(s);
- 2) The duration and gravity of the violation(s);
- 3) The effect on ground or surface water quantity or quality or on air quality;
- 4) The cost of rectifying the damage;
- 5) The amount of money saved by noncompliance;
- 6) Whether the violation was committed willfully or intentionally;
- 7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- 8) The cost to the State of the enforcement procedures.

10/1/21
Date


Michael A. Abraczinskas, Director
Division of Air Quality

STATE OF NORTH CAROLINA

NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT
COMMISSION

County of Bladen

FILE NO. DAQ 2021-057

IN THE MATTER OF ASSESSMENT)
OF CIVIL PENALTIES AGAINST)
Chemours Company - Fayetteville Works)

REQUEST FOR REMISSION OF CIVIL)
PENALTIES; WAIVER OF RIGHT TO)
AN ADMINISTRATIVE HEARING)
AND STIPULATION OF FACTS)

Having been assessed civil penalties totaling \$305,611 for violation(s) of:

2Q .0519 Termination, Modification, Revocation of Permits

NCGS 143-215.108A Control of sources of air pollution; construction of new facilities;
alteration or expansion of exis

as set forth in the assessment document of the Director, Division of Air Quality dated October 1, 2021, the undersigned, desiring to seek remission of the civil penalties, does hereby waive right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the Director of the Division of Air Quality within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after thirty (30) days from the receipt of the notice of assessment.

This the _____ day of _____, 20__

Signature

By

Print Name

Address

Telephone

() _____

JUSTIFICATION FOR REMISSION REQUEST

DAQ Case Number: 2021-057
County: Bladen
Violator: Chemours Company - Fayetteville Works
Facility ID: 0900009
Amount Assessed: \$305,611 (\$305,000 in penalty and \$611 in investigative costs)

Please use this form when requesting remission of this civil penalty. You must also complete the "Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in determining your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors applies. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- (a) one or more of the civil penalty assessment factors in N.C.G.S 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (the assessment factors are listed in the civil penalty assessment document);
- (b) the violator promptly abated continuing environmental damage resulting from the violation (i.e., explain the steps that you took to correct the violation and prevent future occurrences);
- (c) the violation was inadvertent or a result of an accident (i.e., explain why the violation was unavoidable or something you could not prevent or prepare for);
- (d) the violator had not been assessed civil penalties for any previous violations;
- (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance).

EXPLANATION: