



west virginia department of environmental protection

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Response to Comments

DuPont Specialty Products, USA, LLC

Washington, Wood County, WV

Permit Application Number: R13-1849Q

Facility Identification Number: 107-00001

Date: September 27, 2023

The following is the Division of Air Quality's (WV DAQ) response to comments regarding Permit Modification Application R13-1849Q for DuPont Specialty Products, USA, LLC (DuPont) that were received between July 21, 2023 and September 19, 2023 including oral comments made during the public meeting held virtually on September 12, 2023.

Pursuant to §45-13-8.8, all submitted comments received during the public comment period have been reviewed and are addressed in this document.

Organization of Comment Response

The DAQ's response to the submitted comments includes both a general and specific response section. The general response defines issues over which the DAQ has authority and by contrast, identifies those issues that are beyond the purview of the DAQ. The general response also describes the statutory basis for the issuance/denial of a permit, DAQ Compliance/Enforcement Procedures, details the current status of the ambient air quality of Wood County and how that is determined, and discusses the minor source determination. The specific response summarizes each relevant non-general comment/question that falls within the purview of the DAQ and provides a response to it (if it requires a response). Due to the size and number of the comments, this document may not reproduce all the comments here verbatim and instead each comment may, where appropriate, be summarized. The DAQ makes no claim that the summaries are complete; they are provided only to place the responses in a proper context. For a complete understanding of submitted comments, please see the original documents in the file. Both the written comments and a recording of the public meeting are available on the DAQ (AX) database at a link (with instructions) located on the following page:

<https://dep.wv.gov/daq/permitting/Pages/NSR-Permit-Applications.aspx>

The DAQ responses, however, are directed to the entire comments and not just to what is summarized. Comments that are not directly identified and responded to in the specific response section of this document are assumed to be answered under the general response section (or not relevant to the DuPont permit modification application or an air quality-related issue).

Statutory Authority of the DAQ

The statutory authority of the DAQ is given under the Air Pollution Control Act (APCA) - West Virginia Code §22-5-1, et. seq. - which states, under §22-5-1 ("Declaration of policy and purpose"), that: "It is hereby declared the public policy of this state and the purpose of this article to achieve and maintain such levels of air quality as will [underlining and emphasis added] protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state." Therefore, while the code states that the intent of the rule includes the criteria outlined in the latter part of the above sentence, it is clear by the underlined and bolded section of the above sentence that the scope of the delegated authority does not extend beyond the impact of air quality on these criteria. Based on the language under §22-5-1, et. seq., the DAQ, in making determinations on issuance or denial of permits under WV Legislative Rule 45CSR13 (Rule 13), does not take into consideration substantive non-air quality issues such as job creation, economic viability of proposed projects, strategic energy issues, non-air quality environmental impacts, nuisance issues, etc.

Statutory Basis for Permit Denial

The basis for issuance or denial of an air quality permit is given under 45CSR13 - “Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, and Procedures for Evaluation.” Pursuant to §45-13-5.7, the DAQ shall issue a permit unless:

“a determination is made that the proposed construction, modification, registration or relocation will violate applicable emission standards, will interfere with attainment or maintenance of an applicable ambient air quality standard, cause or contribute to a violation of an applicable air quality increment, or be inconsistent with the intent and purpose of this rule or W. Va. Code §22-5-1 et seq., in which case an order denying such construction, modification, relocation and operation shall be issued. The Secretary shall, to the extent possible, give priority to the issuance of any such permit so as to avoid undue delay and hardship.”

It is clear under 45CSR13 that denial of a permit must be based on one of the above explicitly stated criteria or, as noted, is inconsistent with the intent of 45CSR13 or §22-5-1, et. seq. As is stated above, it is the DAQ’s position that the intent of both the APCA and 45CSR13 is to circumscribe the authority of the DAQ to air quality issues as outlined in the APCA and in West Virginia’s State Implementation Plan (SIP).

The air quality issues evaluated relating to DuPont’s proposed modification are outlined in the DAQ’s Engineering Evaluation made public on July 21, 2023. The issues covered under that document represent the extent of the substantive air quality issues over which the DAQ believes it has authority to evaluate under 45CSR13 and the APCA as relating to DuPont’s Permit Modification Application R13-1849Q.

DAQ Compliance/Enforcement Procedures

It is important to note here that the DAQ permitting process is but one part of a system that works to meet the intent of the APCA in WV. The DAQ maintains a Compliance and Enforcement (C/E) Section, an Air Monitoring Section, a Planning Section, etc. to accomplish this. Most pertinent to the permitting process, the C/E Section inspects permitted sources to determine the compliance status of the facility including compliance with all testing, parametric monitoring, record-keeping, and reporting requirements. These inspections are scheduled by the C/E Section taking into consideration such issues as the size and compliance history of the source, resource management and inspector workloads, and program applicability.

When inspecting a facility, the inspectors will, in addition to visually inspecting the facility, generally review all required certified record-keeping to determine compliance with required monitoring. When violations are discovered, the C/E Section has the authority to issue a Notice of Violation (NOV) and a Cease and Desist Order (C&D) to compel facilities to stop operating the equipment/process responsible for the violation. Finally, a negotiated Consent Order (CO) may be entered into between the DAQ and the violator that lays out a finding of facts, a path back into compliance for the violator, and often includes a monetary penalty as determined on a case-by-case basis.

Additionally, the C/E Section investigates citizen complaints directed against a facility (including odor complaints), reviews monitoring reports submitted to the DAQ (again with the authority to issue violations based on the submitted reports), reviews performance test protocols submitted to the DAQ, and will often observe performance tests at the facility site. All records and documents submitted to the DAQ for compliance purposes must be certified as accurate (and subject to criminal penalties if knowingly inaccurate) by a properly designated “responsible official.”

All of these documents - including C/E documents such as NOVs, C&Ds, and COs - when in final form, and minus any confidential information, are available to the public via a Freedom of Information Act (FOIA) request (for older documents) or (for new facilities since 2015) are available on the DAQ (AX) database at the link given above.

Ambient Air Quality Status of Wood County

The quality of the air of a defined local area - in this case for Wood County - is determined by its status with respect to the National Ambient Air Quality Standards (NAAQS). The Clean Air Act, which was last amended in 1990, requires the Environmental Protection Agency (EPA) to set NAAQS for pollutants considered harmful to public health and the environment. The Clean Air Act established two types of national air quality standards. Primary standards set limits to protect public health, including the health of sensitive populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings. The EPA Office of Air Quality Planning and Standards (OAQPS) has set National Ambient Air Quality Standards for six principal pollutants, which are called criteria pollutants. They are listed at:

<https://www.epa.gov/criteria-air-pollutants/naaqs-table>.

Counties that are known to be violating these standards are, for specific pollutants, designated by the EPA as in “non-attainment” with the NAAQS. Counties that are not known to be violating these standards are, for specific pollutants, designated by the EPA as in “attainment/unclassifiable” with the NAAQS. It is important to note that while some counties have no on-site air monitoring, EPA will still designate these areas as in “attainment/unclassifiable” based on a variety of submitted data. These areas are still properly called “attainment areas.” However, this designation is not the same as a designation of just “unclassifiable.” As stated on EPA’s website: “[i]n some cases, EPA is not able to determine an area’s status after evaluating the available information. Those areas are designated “unclassifiable.”

<https://www.epa.gov/criteria-air-pollutants/naaqs-designations-process>

DuPont’s Facility is located in Wood County, WV. Wood County has not been designated as “non-attainment” or as “unclassifiable” and is, therefore, designated as an attainment area.

The DAQ Air Monitoring Section, with ambient air quality sampling sites located throughout West Virginia, monitors air pollutants on either a continuous or periodic basis. The DAQ operates one air monitor located directly in Wood County. For a full list of air monitors in WV, see the table at:

<https://dep.wv.gov/daq/air-monitoring/Pages/default.aspx>.

The location of air monitors are chosen to provide the most efficient means of assessing the ambient air quality in WV with limited resources and are based on such metrics as a location’s population exposure, local emission sources, existing pollutant background levels, and other considerations. There is currently no evidence, based on available data and standard analysis procedures, to indicate that Wood County is not in attainment of the NAAQS or that the impacts from the potential air emissions at the DuPont facility would cause or contribute to a violation of the NAAQS. The location and data from air monitoring sites may be accessed at the following EPA web address:

<https://www.epa.gov/outdoor-air-quality-data/interactive-map-air-quality-monitors>

As noted above, the DuPont facility was reviewed pursuant to the requirements of 45CSR13 - the permitting rule that contains the requirements for the review of minor sources. This rule does not require a cumulative air impact analysis that includes other sources in the determination to issue or deny the permit in question. Further, the DAQ does not believe that if such modeling was conducted, it would show that the proposed source would cause or contribute to a NAAQS violation.

General Points

This permit modification will allow DuPont to add to the site proposed emission control device and increase limitations on the number of maintenance events on which the emission estimates were previously based. Upon further evaluation of the emission calculations the emissions were estimated to decrease with the exception of formaldehyde which showed a slight increase in potential emissions.

- In response to all comments that referenced substantive non-air quality issues, the APCA and 45CSR13 does not grant the DAQ the authority to take into consideration such issues in determining whether to issue or deny the permit;
- The requirements of 45CSR13 require the DAQ to, when denying a permit, explicitly state the reason pursuant to §45-13-5.7.;
- An issued permit is but the beginning of the involvement of the DAQ with a source. After issuance, a facility will receive inspections to determine compliance with the requirements as outlined in the applicable permit;
- With respect to the quality of the ambient air of Wood County, the EPA has designated the county as in attainment with all the NAAQS;
- DAQ's rules allow applicants to perform some pre-construction activities without a permit at the applicant's risk (e.g., construct a building, store equipment);
- The WV DAQ does not take into consideration the economic impact or lack of due to a particular facility when making a final decision on any permit application;
- The DAQ has determined that the proposed DuPont modification is properly defined as a minor stationary source;
- As a proposed minor source, there is no requirement for DuPont to conduct a multi-source air impact analysis nor does the DAQ believe that such modeling, if conducted, would show that the proposed source would cause or contribute to a NAAQS violation.

Public Comments

Comment 1

If section 2.12 is being changed to “Reserved”, then the draft permit still has two paragraphs, 2.12.4 and 2.12.5 under section 2.12 that seem to have been inadvertently retained.

DAQ Response 1

It is correct that all of section 2.12 was to be deleted and changed to Reserved. Section 2.12.4 and 2.12.5 were mistakenly not deleted from the section in the draft due to what appears to be a break in the section across a page break. Sections 2.12.4 and 2.12.5 have been deleted in the permit.

Comment 2

The change in THAP emissions for emission point DEME in the Engineering Evaluation listed increases of 2.07 lb/hr and 2.21 TPY. This is incorrect. THAPs for DEME decrease by 1.69 lb/hr and 0.04 TPY as presented in the application.

DAQ Response 2

This was a typographical error and has been corrected in the Engineering Evaluation.

Comment 3

No permittee should have to potentially suffer a deviation for a voluntary action to improve safety and which is not required by any regulation.

Section 4.1.8.2.2 should be revised as follows removing the strikethrough portion:

~~The flare, DNTFF, the permittee shall maintain at least one pilot light in operation while either emission unit DMH or DMI is in service, except for periods of maintenance to the flare and associated equipment. This flare shall serve only to abate emissions from two tanks (sources DMH and DMI) during an emergency event, when one or both tanks vent through their emergency relief vents.~~

Alternatively the following changes to section 4.1.8.2.2. were suggested:

The flare, DNTFF, the permittee shall maintain at least one pilot light in operation while either emission unit DMH or DMI is in service, except:

- a. for periods of maintenance to the flare and associated equipment,*
- b. for periods of disruption in the supply of natural gas beyond the reasonable control of the permittee,*
- c. when both sources DMH and DMI are isolated (i.e.: locked out) from the production process,*

- d. when only insignificant amounts of material are present in both emission sources DMH and DMI, and*
- e. after demolition and combined with downtime for the associated removal from service of the flare.*

DAQ Response 3

The suggested revisions to section 4.1.8.2.2 are denied. This is a control device and it must be available at all times the source is in operation. The flare is required to have a pilot light lit at all times except during maintenance as described in this section.

Comment 4

The reference to 45CSR13-5-10 should be 45CSR13-5-11.

DAQ Response 4

DAQ disagrees with this correction. The current 45CSR13-5-10 refers to reasonable conditions applicable to this section. 45CSR13-5-11 refers to general permitting.

Comment 5

Having lived through the C8 pollution of our drinking water, I am concerned about the increased emissions and impacts to my community. I do not want my drinking water contaminated again (or more).

DAQ Response 5

The Clean Air Act established two types of national air quality standards. Primary standards set limits to protect public health, including the health of sensitive populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against decreased visibility, damage to animals, crops, vegetation, and buildings. The permitting process, which includes the subject permit modification, is one of the means by which these standards are met through confirmation and enforcement of compliance with state and federal rules and regulations and facility requirements.

When issuing a permit, the WV DAQ may not consider any other important, non-air quality related issues including other environmental considerations such as water quality.

Comment 6

The permit modification should be denied. Low-income residents would bear a disproportionate share of the risks or consequences of the environmental pollution caused by this permit because of their economic status. In 2003, The West Virginia DEP created the Environmental Equity Policy, stating that “the West Virginia Department of Environmental Protection will, within its authority, ensure that no segment of the population, because of its status as a low-income or minority community or any other fact so relating to its racial or economic makeup, bear a disproportionate share of the risks and consequences of environmental pollution or be denied equal access to environmental benefits” (West Virginia Department of Environmental Protection Environmental Equity Policy).

The permit modification fails to take into account the cumulative environmental and health related impacts that low-income residents will suffer, as contemplated by the Environmental Equity Policy. Because the permit modification fails to comply with the Environmental Equity Policy, fails to adequately (sentence incomplete)

DAQ Response 6

In this instance, the WVDAQ does not have discretion to issue the permit and is required to do so by rule:

- 5CSR13-5.7 states: The Secretary shall issue such permit or registration unless he or she determines that the proposed construction, modification or relocation will violate applicable emission standards, will interfere with attainment or maintenance of an applicable ambient air quality standard, cause or contribute to a violation of an applicable air quality increment, or be inconsistent with the intent and purpose of this rule or W. Va. Code §22-5-1, et seq., in which case the Secretary shall issue an order denying such construction, modification, relocation and operation. The Secretary shall, to the extent possible, give priority to the issuance of any such permit so as to avoid undue delay and hardship.

As written in WV DAQ's Environmental Equity Policy “. . . the West Virginia Department of Environmental Protection will, within its authority, ensure that no segment of the population, because of its status as a low-income or minority community or any other fact so relating to its racial or economic makeup, bear a disproportionate share of the risks and consequences of environmental pollution or be denied equal access to environmental benefits”. The WV DAQ authority is that authority granted by State and Federal rules and regulations. In accordance with W.Va. Code §22-5-1, et seq., ‘. . .no legislative rule or program . . . shall be any more stringent than any federal rule or program...’ WV DAQ believes that the permit modification meets all applicable state and federal rules, regulations, and standards and that these rules, regulations, and standards are protective of human health and the environment for all segments of the population as described in DAQ Response 5.

Comment 7

Make records and monitoring data easily available to the public in a format that can be understood by the average citizen, including in times of any incidents or breaches of protocol.

DAQ Response 7

WV DAQ publishes records to a searchable database (Application Xtender) on the WV DEP website. These records are available to the public. These records include permits, applications, emissions data enforcement actions, etc.

Comment 8

Mandate additional control technologies to minimize cumulative community health impacts.

DAQ Response 8

WV DAQ may not mandate control technologies outside of its authority. In accordance with W.Va. Code §22-5-1, et seq., ‘. . .no legislative rule or program . . . shall be any more stringent than any federal rule or program...’

Comment 9

Develop a well-communicated emergency response plan in cooperation with local emergency services to be employed in the event of an accident, with special attention paid to the needs of disabled residents;

DAQ Response 9

WV DAQ has not accepted delegation of an emergency response plan program. U.S. EPA implements the emergency response plan programs.

Comment 10

Conduct a thorough environmental justice and cumulative impact analysis to ensure impacts from the facility to not disproportionately fall on environmental justice communities and consult with the community about what additional measures will be implemented to protect vulnerable residents.

DAQ Response 10

DAQ's statewide air program requires that facilities obtain permits with emission limits for air pollutants that ensure compliance with state and federal emissions standards. Permitted emission limits are established so that no single facility is allowed to cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS). This approach also establishes a framework in which aggregate emissions from multiple facilities should not exceed the NAAQS. WV DAQ believes that the permit modification meets all applicable state and federal rules, regulations, and standards and that these rules, regulations, and standards are protective of human health and the environment as described in DAQ Response 5.

Comment 11

According to EPA's EJ Screen Tool, Washington is defined as an environmental justice community as are other communities within Wood County. This facility is an area above the national average for instances of cancer, heart disease, and asthma. And in general, it's unjust to permit additional known toxins in an area that's already overburdened with sickness from pollution. So most concerning are the proposed emission increases in carbon monoxide nitrogen, oxide, sulfur, dioxide and VOCs.

DAQ Response 11

DAQ's statewide air program requires that facilities obtain permits with emission limits for air pollutants that ensure compliance with state and federal emissions standards. Permitted emission limits are established so that no single facility is allowed to cause or contribute to a violation of the National Ambient Air Quality Standards (NAAQS). This approach also establishes a framework in which aggregate emissions from multiple facilities should not exceed the NAAQS. WV DAQ believes that the permit modification meets all applicable state and federal rules, regulations, and standards and that these rules, regulations, and standards are protective of human health and the environment as described in DAQ Response 5.

Comment 12

Additionally, the Intergovernmental Panel on Climate Change sounds the alarm of the most disastrous consequences of climate change. There can be no additional fossil fuel production or development. And so, allowing the continued production of plastic at this facility is inconsistent with that warning. EPA is a national strategy to prevent plastic pollution endeavors to quote, prevent plastic pollution from harming, human health, and the environment, particularly for communities already overburdened by pollution with the goal of reducing plastic pollution during plastic production. This facility is classified as a source of major emissions for carbon, sulfur dioxide, and nitrogen oxide. No more of these emissions should be permitted.

DAQ Response 12

WV DAQ is required to issue permits by rule (see DAQ Response 6).

Comment 13

Moms Clean Air Force West Virginia, Mid-Ohio Valley Climate Action, Ohio Valley Environmental Advocates, People Over Petro Coalition, West Virginia Citizen Action Group, West Virginia Environmental Council, and West Virginia Rivers urge the West Virginia Department of Environmental Protection to deny DuPont Washington Works' permit request due to a long history of violating clean air and clean water laws; failure to utilize safer technologies; and the injustice of adding additional pollution to an already overburdened community, putting public health at risk.

DAQ Response 13

WV DAQ is required to issue permits by rule (see DAQ Response 6). WV DAQ may not withhold or deny a permit based on past or current noncompliance of the applicant.

Comment 14

In your presentation of September 12, 2023, you stated that the WV DEP would issue a permit unless it determined that the proposed modification would violate an air emissions standard or would be inconsistent with the intent or purpose of West Virginia laws or Code. Like you said, those laws aim to protect human health and the environment. We contend that the proposed modification -- allowing the company more petrochemical flaring and more toxic pollution in Wood County -- is inconsistent with that intent.

DAQ Response 14

WV DAQ believes that the permit modification meets all applicable state and federal rules, regulations, and standards and that these rules, regulations, and standards are protective of human health and the environment as described in DAQ Response 5.

Comment 15

It is a well-understood tactic for petrochemical facilities to expand their operations in a piecemeal fashion, inching up the emissions numbers little by little. Such a strategy of requesting permits for small modifications is a classic way that petrochemical companies expand their operations without public notice. This is precisely what is taking place at the DuPont-Chemours Washington Works facility.

DAQ Response 15

WV DAQ did not witness any attempt by the applicant to ‘. . .expand operations without public notice.’

DuPont Specialty Products issued a notice of application in the local newspaper on May 10, 2023.

Additionally, WV DAQ issued a public notice July 21, 2023 that opened a 30 day public comment period. The public comment period was extended to September 19, 2023 and a public meeting was held virtually on September 12, 2023.

Comment 16

It is important to look at the bigger picture of what this plastics factory, DuPont Washington Works, and their spinoff company Chemours Washington Works, are emitting in Wood County and surrounding communities.

We note that since both entities share the same physical location, the artificial divide between DuPont and Chemours is irrelevant.

DAQ Response 16

WV DAQ determined that The Chemours Company FC, LLC and DuPont Specialty Products, LLC are separate companies and that the processes owned and operated by DuPont Specialty Products, LLC are separate processes from the ones owned and operated by The Chemours Company FC, LLC and are therefore not under common control and should be permitted separately. This determination was made in a previous permitting action and nothing was proposed in this modification that would change that determination.

Comment 17

In total, the Toxics Release Inventory for 2022 for DuPont Polymer Products reports 11,847.99 lbs of air toxics emissions in 2022.

DAQ Response 17

The proposed increase in formaldehyde emissions of 0.024 tpy (48 pounds per year) did not result in the formaldehyde tons per year limit being increased. The proposed increase is less than the modification threshold of 10% of 1000 pounds per year as defined in 45CSR13.

Comment 18

A HIGH-PRIORITY VIOLATOR

EPA’s Enforcement and Compliance History Online (ECHO) database offers data on the extent to which industrial polluters are violating laws meant to protect public health and the environment. Due to its complex ownership structure as “DuPont” and as “Chemours,” the facility at 8480 Dupont Road in Washington, West Virginia has three separate entries under different names. For those who must live and work around the Washington Works facility, including the children whose lungs and other organs are still developing, this corporate ownership status makes little difference. Re-naming parts of an industrial polluter must not be used as a way to shield these companies from responsibility.

The Washington Works facility, under the name of Chemours, has been a Clean Air Act High Priority Violator for the past four quarters. Its “high priority” air pollution violations involve chlorine, mercury, total hazardous air pollutants (HAPS), carbon monoxide, volatile organic compounds (VOCS), visible emissions, particulate matter < 10 UM, total particulate matter, hydrochloric acid, nitrogen oxides, and sulfur dioxide. The facility also has ongoing “Significant Violations” under the Clean Water Act, including the past 12 quarters in Significant Noncompliance (every single quarter for the past 3 years). The Washington Works facility has had 7 formal enforcement actions over the past 5 years. In addition, the facility has recent RCRA (waste) violations. <https://echo.epa.gov/detailed-facility-report?fid=110071367964> This is not a facility that the West Virginia Department of Environmental Protection should be rewarding with additional capacity to pollute. We are urging the WV DEP to require the Washington Works facility to desist from violating federal air pollution laws, not to increase the allowable emissions.

DAQ Response 18

WV DAQ determined that The Chemours Company FC, LLC and DuPont Specialty Products, LLC are separate companies and that the processes owned and operated by DuPont Specialty Products, LLC are separate processes from the ones owned and operated by The Chemours Company FC, LLC and are therefore not under common control and should be permitted separately. This determination was made in a previous permitting action and nothing was proposed in this modification that would change that determination. The applicant for this modification is DuPont Specialty Products, LLC and not Chemours.

Comment 19

The Chemours/DuPont facility proposes to add an additional flare to burn off chemicals during upset events, and to increase the number of vapor releases allowed during periodic maintenance of its “capper jets.” Instead of polluting more, we recommend that the Washington Works facility take steps to actually protect people from its dangerous and harmful operations. Rather than flaring more, as they propose in their permit modification, the facility could upgrade their flare efficiency, and – even better – could commit to almost entirely flare-free operations.

Chemours/DuPont uses flares and “jets” for routine management of waste gases, resulting in significant emissions of formaldehyde and other pollutants. Most flares cannot be readily monitored to verify their emissions. Flares also produce additional highly-toxic pollutants as an unavoidable result of the often poor and variable combustion in the open flames. Far from protecting the public as Chemours/DuPont suggests, flaring is itself a source of significant pollution. Open flaring for routine waste gases simply needs to stop. Since flares are so highly polluting, flares should only be used in true emergency situations, and only as a last resort.

More efficient controls such as thermal oxidizers are already used at some facilities in place of flaring. There are far better techniques for routine management of waste gases, including vapor recovery systems coupled with waste gas storage systems.

In addition, the Washington Works facility could dramatically upgrade its leak detection and repair technology, for example by implementing leakless or low-leak valves, optical gas imaging, or leak detection sensor networks. It could commit to discontinue use of startup, shutdown, and malfunction loopholes. And it could implement robust fence-line monitoring as called for in the EPA proposed rule for synthetic organic chemical plants and for polymers and resins facilities.

The Washington Works facility is on the EPA list for coverage by the new Chemical Manufacturing Rules. The 200 facilities covered by these proposed standards are among the most polluting industrial plants in the nation.

<https://www.federalregister.gov/documents/2023/04/25/2023-07188/new-source-performance-standards-for-the-synthetic-organic-chemical-manufacturing-industry-and>

Instead of acknowledging the need to better protect the health of people in the community, the facility is already pushing back on the EPA proposal. DuPont and Chemours seem to insist that they can harm Wood County as much as they please.

As reported in the Charleston Gazette-Mail on May 8, 2023:

Chemours said the rule wouldn't apply to operating units at its Washington Works site. The company cited state Department of Environmental Protection-issued operating air permits for the Washington Works site that shield it from certain federal regulations, including some that apply to synthetic organic chemical manufacturers.

Chemours spokesperson Lisa Randall said the company's initial review indicated the rule would apply to a DuPont site at Washington Works.

DuPont spokesperson Daniel Turner said DuPont is reviewing the proposed rule to determine if there would be "any potential impact to our operations at the site."

https://www.wvgazettemail.com/news/energy_and_environment/epa-identifies-which-two-wv-facilities-face-fenceline-monitoring-requirements-under-proposed-chemical-emissions-rule/article_8715fa45-4f93-50b3-8890-f44c9ea0c6a4.html

DuPont/Chemours Washington Works is a known serial violator of air and water pollution laws in Wood County. Communities surrounding this facility deserve to live with less pollution, not more. We urge the WV DEP to protect children and families across West Virginia from the dangerous cumulative air pollution impacts from this facility.

Please deny the Modification of Permit R13-1849Q.

DAQ Response 19

The flare is to be used for emergency events only in the event that safety pressure relief vents open on the two storage vessels in the event of an upset. This flare is not being permitted for the 'routine management of waste gases.' Currently, there is no requirement for DuPont Specialty Products, LLC to have a flare to control emissions from these storage vessels. DuPont has voluntarily proposed to add on this control device for safety reasons. The routine emissions from the flare are from the pilot flames that are required to be operated in control devices.

The capper maintenance jet event emissions were mostly accounted for and limited accordingly in a previous permitting action. The only limit increase due to the increase in capper maintenance jet events is the hourly rate of formaldehyde from 1.31 to 1.34 pounds per hour. The ton per year limit is unchanged for formaldehyde. The capper scrubber emission point (DEME) limits decrease or remain the same for volatile organic compounds, hexane, toluene, and THAP.

The EPA proposed rule is just that, proposed. WV DAQ may not apply proposed rule requirements but must wait until the proposed rule becomes a final rule. It will depend on the applicability criteria in the proposed rule, whether or not the rule will apply to the Chemours or DuPont facilities if or when the rule becomes final.

WV DAQ is required to issue permits by rule (see DAQ Response 6).