

STATE OF NORTH CAROLINA

NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT  
COMMISSION

COUNTY OF BLADEN

IN THE MATTER OF: )  
E.I.DU PONT DE NEMOURS & CO., LLC )  
DBA, DUPONT COMPANY – )  
FAYETTEVILLE WORKS )

CASE NUMBER 2009-049

FOR VIOLATION OF: )  
NCGS 143-215.108 "CONTROL OF )  
SOURCES OF AIR POLLUTION; )  
PERMITS REQUIRED" IN )  
CONSTRUCTING AND/OR OPERATING )  
AN AIR CONTAMINANT SOURCE )  
WITHOUT A PERMIT )

CIVIL PENALTY ASSESSMENT

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

I. FINDINGS OF FACT:

- A. E.I. du Pont de Nemours & Co., LLC, dba DuPont Company – Fayetteville Works, is a chemical manufacturing facility operating at 22828 NC Highway 87 West, Duart Township, Bladen County, North Carolina. The facility consists of six individual manufacturing plants, a boiler house and a waste treatment operation.
- B. DuPont Company – Fayetteville Works holds a Title V Air Permit. The effective permit at the time the violations were discovered was Air Permit No. 03735T33, which was issued on 4 August 2008 with an expiration date of 31 January 2009.
- C. General Condition 3.A.6. of Air Permit No. 03735T33 states:

Any stationary source of air pollution shall not be operated, maintained, or modified without the appropriate and valid permits issued by the DAQ, unless the source is exempted by rule. The DAQ may issue a permit only after it receives reasonable assurance that the installation will not cause air pollution in violation of any of the applicable requirements. A permitted installation may only be operated, maintained, constructed, expanded, or modified in a manner that is consistent with the terms of this permit.

- D. On 8 December 2008, the Division of Air Quality Fayetteville Regional Office (DAQ FRO) received a Title V Air Permit Modification Application from DuPont Company – Fayetteville Works. The permit application included the addition of three product cylinder decontamination processes that were existing sources with potential to emit greater than five tons of volatile organic compounds (VOC) per year. These sources vent residual product (VOC) to the atmosphere during a purging process of one-ton cylinders

and ISO tank containers that are returned from the customer and reused by DuPont. These operations have always been part of the overall container process. According to the permit application, the actual emissions from the Hexafluoropropylene oxide (HFPO) Product Cylinder Decontamination Process were estimated to be 37.1 tons of VOC during 2008. Potential emissions from this source were calculated to be 100.3 tons of VOC per year. Potential VOC emissions from the Vinyl Ethers North Product Cylinder Decontamination Process and Vinyl Ethers South Product Cylinder Decontamination Process were calculated to be 20.6 tons per year and 10.7 tons per year, respectively. The application also requested a PSD avoidance limit be added to the air permit for the HFPO Product Cylinder Decontamination Process.

- E. A Notice of Violation / Notice of Recommendation of Enforcement (NOV/NRE) was issued to the facility on 6 January 2009, citing the above violations. The NOV/NRE asked for a description of pollutants being emitted from the aforementioned processes, explanation of how the violation was discovered, start-up dates, and calculated emissions from each source.
- F. On 21 January 2009, DAQ FRO received a response to the NOV/NRE from DuPont Company – Fayetteville Works. The response indicated that a company engineer realized these sources were unpermitted while reviewing results of a calculation performed to estimate annual losses from the decontamination process. An application was submitted to DAQ following this observation. The pollutants being emitted from these processes are VOC. The Vinyl Ethers North Decontamination process also emits a water-soluble acid fluoride, which is reported as the molar equivalent of hydrogen fluoride.
- G. According to the NOV/NRE response letter, the startup dates, potential emission estimates, and actual emissions estimates for calendar years 2006, 2007, and 2008 for each of the applicable operations are:

<b>Decontamination Unit</b>	<b>Start-up Date</b>	<b>Potential VOC Emissions (TPY)</b>	<b>2006 Actual VOC Emissions (TPY)</b>	<b>2007 Actual VOC Emissions (TPY)</b>	<b>2008 Actual VOC Emissions (TPY)</b>
HFPO	1980	100	39.2	36.6	33.8
Vinyl Ethers North	1980	20.6	3.8	4.8	4.1
Vinyl Ethers South	1996	15.7	9.2	9.6	9.7

H. Air Permit No. 03735T34, which included the HFPO and Vinyl Ethers North and South Units, was issued on 15 January 2009 with an expiration date of 31 January 2009.

I. Air Quality Compliance and Enforcement History.

- An NOV was issued on November 30, 2007 for failure to submit a complete Part II Title V application for a temporary boiler within twelve months of commencing operation.

J. The costs of investigation or inspection in this matter totaled \$285.

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

II. CONCLUSIONS OF LAW:

- A. E.I. du Pont de Nemours & Co., LLC, dba DuPont Company – Fayetteville Works, was in violation of G.S 143-215.108 “Control of Sources of Air Pollution; Permits Required” for constructing and/or operating three product decontamination units without a permit, as stated in Part I, Findings of Fact, above.
- B. 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.
- C. 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:

E.I. du Pont de Nemours & Co., LLC, DBA, DuPont Company – Fayetteville Works is hereby assessed a civil penalty of:

\$ 3000.00 for one (1) violation of G.S. 143-215.108 in constructing and/or operating an air contaminant sources without a permit discovered on 8 December 2008.

\$ 3000.00 TOTAL CIVIL PENALTY, which is 12 percent of the maximum penalty authorized by G.S. 143-215.114A.

\$ 285 Investigation costs

\$ 3285.00 TOTAL AMOUNT DUE

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 2J .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.

4/30/09  
Date

Sheila C. Holman  
Sheila C. Holman, Deputy Director  
Division of Air Quality