



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Hazardous Waste Enforcement: Arkansas Department of Environmental Quality and Union County, Arkansas Chemical Manufacturing Facility Enter into Consent Administrative Order

01/08/2018

The Arkansas Department of Environmental Quality (“ADEQ”) and The Chemours Company FC, LLC (“Chemours”) entered into a December 8th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission (“APC&EC”) Regulation 23 (Hazardous Waste Management). See LIS No. 17-098.

The CAO provides that Chemours operates a chemical manufacturing facility (“Facility”) in Union County, Arkansas.

The Facility is stated to manufacture fluorinated chemical products including heptafluoropropane, trifluoropropene, 2-bromo 1,1-difluoroethane, and Pharma-227. It is stated to be classified as a Large Quantity Generator of hazardous waste. Some of the hazardous waste is stated to be shipped offsite and some treated onsite before being transferred to a neighboring facility for deep well injection.

ADEQ is stated to have conducted a Compliance Evaluation Inspection (“CEI”) at the Facility on July 12, 2016. The CEI allegedly identified the following violations of APC&EC Regulation 23:

1. Failure to determine if a solid waste is a hazardous waste
2. Accumulation of hazardous waste onsite for greater than 90 days without a permit or interim status
3. Failure to maintain adequate aisle space to allow the unobstructed movement of personnel and equipment in the event of an emergency
4. Failure to inspect, at least weekly, areas where containers are stored

The Facility responded on September 7, 2016, to ADEQ’s CEI Report with the following information in regards to the four alleged violations. They included:

1. Respondent submitted documentation that waste determinations had been made for he containers stored in the <90-day storage area. The submitted documentation also included a

site-specific waste disposal manual describing waste characterization, labeling, and thirteen (13) waste profiles approved subsequent to the CEI.

2. Respondent submitted documentation, including shipment manifests, that all containers of waste stored in the <90-day storage area had been shipped offsite, except four (4) drums that began accumulation the week of August 22, 2016.
3. Respondent submitted photographic documentation that the <90-day storage area had adequate aisle space.
4. Respondent stated that the protocol for inspecting the <90-day storage area had been revised to require at least two (2) personnel to perform the weekly inspection, including one person from the warehouse and one person from management. Respondent submitted documentation that a revised inspection form was in use and that the system for data entry had been revised.

The CAO requires that upon its effective date Chemours submit documentation to ADEQ that:

. . . there is adequate aisle space for the unobstructed movement of personnel and equipment to any area of facility operation in an emergency in accordance with APC&EC Reg. No. 23 § 265.35. This includes, but is not limited to, the warehouse area where universal waste-consumer electronic items are stored.

The Facility is also required, upon the effective date of the CAO, to conduct an Internal Compliance Audit of all hazardous waste management units and related activities (and be of sufficient scope to identify any instances of noncompliance with applicable hazardous waste management requirements, whether identified by the aforementioned CEI Report or not). A report is required to be submitted to ADEQ describing actions taken to maintain compliance with respect to the Internal Compliance Audit (and the report is subject to ADEQ approval).

A Pollution Prevention Study is also required to be undertaken within 60 calendar days of the effective date of the CAO to:

. . . investigate ways to reduce the amount of waste from the Facility and submit a Report of Findings specific to the PPS to ADEQ for review and approval.

The CAO assesses a civil penalty of \$39,000 of which \$13,650 may be used for one or more Supplemental Environmental Projects to be approved by the Director. Timelines are provided for completion of the Supplemental Environmental Projects.

[A copy of the CAO can be found here.](#)