



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

ENVIRONMENTAL APPEALS BOARD

FEB - 8 2013

Eric Schaaf, Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway
New York, NY 10007-1866

Re: E.I. du Pont de Nemours and Company
Permit Number: NJD002173946
Appeal Numbers: RCRA 13-01, and RCRA 13-02

Dear Mr. Schaaf:

This is to advise you that the Environmental Appeals Board ("Board" or "EAB") received two petitions for review from the following: Kathleen B. Campbell, Attorney, Manko, Gold, Katcher & Fox, LLP, and Stephen Rahaim, Attorney, DuPont Legal - Corporate Counsel, on behalf of E.I. du Pont de Nemours and Company (RCRA 13-01), dated January 31, 2013; and Ella F. Filippone, Executive Director, Passaic River Coalition, on behalf of Passaic River Coalition (RCRA 13-02), dated February 1, 2013. The petitions seek review of a **RCRA** final permit decision issued by U.S. Environmental Protection Agency, Region 2 to Du Pont de Nemours Company.

A copy of the petitions and exhibits, can be found on the Board's website at www.epa.gov/eab (click "EAB Dockets" on the sidebar, click on the "Active Dockets" link, and then click on the appropriate case name). If you have any difficulty accessing this document, please let me know.

IMPORTANT NOTE: On January 25, 2013, the U.S. Environmental Protection Agency ("EPA") published a rule in the Federal Register revising the part 124 permit appeal procedures. 78 Fed. Reg. 5281. **On March 26, 2013, this rule will take effect, and all documents filed with the Board on or after this date**

become subject to the revised provisions. Consequently, if you file any documents in this proceeding on or after March 26, 2013, you must follow the procedures prescribed by the revised rule. The text of the rule and additional information regarding the rule are available through the Board's Web site at the "Regulations Governing Appeals" Web page.

To assist the Environmental Appeals Board in deciding whether the matters petitioners raises should be reviewed, please have your staff prepare a response that addresses the petitioners' contentions and whether petitioners have satisfied the requirements for obtaining review under 40 C.F.R. § 124.19(a). Such response should be filed no later than **March 26, 2013**. Include relevant portions of the administrative record with the response. In particular, documents cited in your response must be included as attachments. In addition a certified index of the entire administrative record must be filed with the response. The permit issuer is encouraged to file the index to the record, preferably electronically, as soon as possible after receiving notification of this appeal. Early filing of the certified index enables the Board to begin prompt review of the record even before all of the briefs are filed.

A copy of this letter is being sent to Du Pont de Nemours Company as notification of petition RCRA 13-02 and these filing requirements. If the permittee chooses to file a response, the response must be received by **March 26, 2013**. A copy of this letter is [also] being sent to the petitioners as notification of these filing requirements

Filing Requirements

Filing may be accomplished electronically pursuant to the Board's Order of January 28, 2010.¹ Alternatively, filing may be accomplished by filing a paper original (signed in blue ink) and two copies of these materials with the Board (at the address shown below) by the date

¹ The Board has issued an Order authorizing the electronic filing of documents in cases involving permit appeals. *See* Order Authorizing Electronic Filing in Proceedings Before the Environmental Appeals Board Not Governed by 40 C.F.R. Part 22 (Jan. 28, 2010), *available at* <http://www.epa.gov/eab> (click "Standing Orders" on sidebar). Instructions on registration and document filing are available by using the "Electronic Filing" link on the Board's website. Documents containing confidential business information should not be filed electronically as the Board considers business confidentiality claims waived when a document is electronically filed. *Id.* at 5-6. Please note that if a party, or its attorney or other representative, electronically files any document, such as a notice of appeal, brief, or motion, that exceeds fifty (50) pages in length, inclusive of the certificate of service, table of contents, and table of authorities, but exclusive of exhibits or attachments, it must also send one paper copy of that document to the Board by U.S. Mail, hand, courier, or commercial delivery service within one business day of the date of the electronic filing. *See id.* at 4-5. Such paper copy must be accompanied by a signed certification stating that it is identical to the electronically filed document. *Id.* at 5. If the combined page length of all of the exhibits or attachments submitted in support of a brief or motion exceeds fifty (50) pages, the requirement to submit a paper copy, and its timing, applies to the entire set of exhibits or attachments. *Id.* Anyone electronically filing exhibits or attachments in support of a brief, motion, or other document should submit them separately from the associated brief or motion. *Id.* at 3.

specified above. A copy must be sent to Petitioners, and a certificate of service showing the date and method of service should be included with the filing.

IMPORTANT: All documents filed, including the materials due March 26, 2013, must reference the appeal number and the name, address, and telephone number of the filer. If available, the filer also should provide a fax number and an email address. **In addition, any envelope or other packaging containing documents sent to the Environmental Appeals Board's mailing address or hand-delivery address, as prescribed below, must bear a complete and accurate return address in the upper left hand corner. The envelope or packaging must also clearly state the case name and appeal number in the lower left hand corner.**²

Documents that are sent through the U.S. Postal Service (except by Express Mail) **MUST** be addressed to the Environmental Appeals Board's mailing address, which is:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1200 Pennsylvania Avenue, NW
Mail Code 1103M
Washington, D.C. 20460-0001

Documents that are sent to the Environmental Appeals Board's hand-delivery address through the U.S. Postal Service (except by Express Mail) will be returned to the sender and shall not be considered as filed.

Hand Delivery Address

Documents that are **hand-carried**, delivered via Courier, mailed by Express Mail or delivered by a non-U.S. Postal Service carrier (e.g., Federal Express or UPS) **MUST** be delivered to:

Clerk of the Board
U.S. Environmental Protection Agency
Environmental Appeals Board
1201 Constitution Avenue, NW
EPA East Building, Room 3334
Washington, D.C. 20004

² All mail sent to the Environmental Protection Agency may be delayed by a random sterilization procedure. Parties are encouraged to utilize the Board's e-filing system or hand or courier delivery when filing pleadings with the Board. Additional information regarding mail delivery to the Board is available on the Environmental Appeals Board website (www.epa.gov/eab) at the Clerk of the Board or Frequently Asked Questions links.

The contact number for hand delivery is (202) 233-0122. Such documents may be delivered from 8:30 a.m. to 4:30 p.m., Monday through Friday (excluding federal holidays). Documents filed electronically may be filed at any time up to 11:59 p.m. Eastern Time on the day the document is required to be filed with the Board.

Thank you for your attention to these matters.

Sincerely,



Eurika Durr
Clerk of the Board

cc: Kathleen B. Campbell, Esquire
Marc E. Gold, Esquire
Andrew C. Sifton, Esquire
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