

LOUIS L. REDDING CITY COUNTY BUILDING  
8TH FLOOR



COUNCIL

800 N. FRENCH STREET  
WILMINGTON, DELAWARE 19801  
(302) 395-8383  
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July 16, 2020

VIA EMAIL

The Honorable Shawn M. Garvin  
Secretary  
Department of Natural Resources and Environmental Control  
The Richardson & Robbins Building  
89 Kings Highway, Dover, DE 19901  
shawn.garvin@state.de.us

Dear Secretary Garvin:

On July 14, 2020, New Castle County Council passed Resolution No. 20-154, which opposes Croda Inc.'s Permit Application with the Department of Natural Resources and Environmental Control to expand production at Croda's Atlas Point Facility. A copy of the signed Resolution is attached. In addition, please find enclosed a copy of the July 8, 2020 press release issued by U.S. Senator Tom Carper and several others regarding the congressional letter sent to the E.P.A related to Ethylene Oxide.

We respectfully request that the Resolution and the press release be placed into the record for Croda's pending Permit Application, which is scheduled for a hearing on July 21, 2020. Thank you.

Very Truly Yours,

/s/ Jea Street  
Councilman Jea Street

/s/ David Carter  
Councilman David Carter

/s/ Karen Hartley-Nagle  
Council President Karen Hartley-Nagle

cc: Deputy Secretary Borin Ogden, Esq. (*Via Email*; Lisa.BorinOgden@delaware.gov)  
Ralph K. Durstein, III, Esq. (*Via Email*; ralph.durstein@state.de.us)

MS. HARTLEY-NAGLE

Introduced by: Mr. Street, Mr. Carter, "  
Date of introduction: July 14, 2020

**RESOLUTION NO. 20-154**

**IN OPPOSITION TO CRODA INC.'S PERMIT APPLICATION WITH THE  
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL  
TO EXPAND PRODUCTION AT CRODA'S ATLAS POINT FACILITY**

**WHEREAS**, Croda, Inc. operates its Atlas Point Facility at Cherry Lane, New Castle, Delaware; and

**WHEREAS**, Croda is closely situated to densely populated neighborhoods and heavily traveled highways; and

**WHEREAS**, at the Atlas Point Facility, Croda manufactures surfactants, which are substances that act as binding agents in other products; Croda uses corn-based ethanol to make Ethylene Oxide, which is the chemical needed to create the binding agents; and

**WHEREAS**, Ethylene Oxide is an extremely flammable gas, is considered to be a human carcinogen, and exposure to the chemical can cause a series of medical problems including skin rashes, breathing problems, and, in severe cases, coma; and

**WHEREAS**, in its relatively brief history in New Castle, Croda's activities have been a cause for concern – specifically, Croda has had numerous reported Department of Natural Resources and Environmental Control ("DNREC") environmental violations, which have included:

- unpermitted releases of highly flammable Ethylene Oxide, which threatened the health and safety of surrounding neighborhoods and anyone passing by or near the facility, and on at least one occasion was coupled with Croda's failure to timely report the incident to DNREC and a shutdown of the Delaware Memorial Bridge;
- exceeding non-methane hydrocarbons emissions limits;
- failure to regularly inspect or maintain inspection records for storage areas;
- failure to receive necessary approval of its plans (for stormwater and sediment) before it commenced construction;
- violations of best management practices related to air pollution;
- improper marking on hazardous waste containers;
- failure to make a timely application for permit renewals;
- failure to monitor or record certain visible emissions; and
- failure to provide the required monitoring of erosion and sediment controls;

**WHEREAS**, in response to one of Croda's unpermitted Ethylene Oxide releases, in November, 2018, the U.S. Department of Labor's Occupational Safety and Health Administration found that Croda's plant had "deficient emergency action and response plans," failed to train employees on how to manage an Ethylene Oxide leak, did not develop procedures for emergency responders to manage firewater during such a leak, did not activate the emergency alarm system, and also failed to provide employees with respiratory protection; and

**WHEREAS**, despite the serious concerns identified above, Croda has submitted an application for a permit (APC-2020/0070-CONSTRUCTION (FE)) to install two new tanks at its facility: a 12,000 gallon drumming tank (Blend Drumming Tank C, Emission Unit 2) to existing Blend Tanks A and B at the facility, and a 23,000 gallon storage tank for Atplus Destiny final product; and

**WHEREAS**, Croda's Permit Application discloses that, if its application is approved, this will result in an increase in emissions of volatile organic compounds ("VOCs) and hazardous air pollutants ("HAPs"); specifically, the Permit Application states that the emission increase for the addition of Blend Tank C will be 0.36 ton per year (TPY) of VOCs including 0.17 TPY of hazardous air pollutants (primarily 1,4-dioxane, which the Department of Health and Human Services and the Environmental Protection Agency consider as reasonably anticipated to be a human carcinogen); and

**WHEREAS**, Croda's Permit Application explains that, although Croda intends to comply with its current VOC emissions limitation, its equipment nonetheless will vent hazardous materials directly into the atmosphere, and that emissions data will not be recorded by a continuous emission monitoring system; and

**WHEREAS**, given Croda's history of environmental violations, the proposed Permit Application - which admittedly would increase pollutant emissions, and thereby potentially endanger local residents' well being - is alarming; and

**WHEREAS**, given the above, Councilman Street, on behalf of his constituency, requested that DNREC schedule a public hearing regarding Croda's Permit Application; and

**WHEREAS**, in his letter to DNREC requesting such a hearing, Councilman Street objected to Croda's Permit Application based on several grounds, including:

1. Croda's troubling environmental history, including the November, 2018, Ethylene Oxide leak that led to Croda's shutdown for almost one year;
2. Many local residents opposed DNREC's decision to allow Croda to re-start operations after its most recent Ethylene Oxide release and, based on its history, continue to question Croda's operations and its attention to safety and concern for residents' health and well being; consequently, the addition of the proposed new tanks will only compound neighbors' anger and anxiety about their well being;
3. Croda's emergency notifications and procedures continue to be insufficient to ensure the safety of the facility's neighbors; and
4. Croda's operations pose an imminent danger to local residents and all people that use the Delaware Memorial Bridge and nearby roadways.

**WHEREAS**, in response to Councilman Street's request, DNREC has scheduled a virtual meeting on July 16, 2020, to provide information only about the project and the Permit Application, with a virtual public hearing on the Permit Application and draft permit to be held on July 21, 2020.

**NOW, THEREFORE, BE IT RESOLVED** by and for the County Council of New Castle County that County Council hereby opposes Croda Inc.'s Permit Application pending before the Department of Natural Resources and Environmental Control and its related request to expand production at its Atlas Point Facility in New Castle, Delaware.

Adopted by County Council of  
New Castle County on: 7/14/20

  
President of County Council  
of New Castle County

**SYNOPSIS:** Same as title.

**FISCAL NOTE:** There is no discernible fiscal impact with the adoption of this resolution.



## PRESS RELEASES

# **Carper, Duckworth, Durbin and Colleagues Urge EPA to Exercise its Full Authority under the Clean Air Act as it Begins EtO Rulemaking Process (/public/index.cfm/pressreleases? ID=BBF5FF85-B190-4E12-921A- B451F988B94A)**

Jul 08 2020

WASHINGTON – Today, U.S. Senators Tom Carper (D-Del.), top Democrat on the Environment and Public Works (EPW) Committee, Tammy Duckworth (D-Ill.) and Dick Durbin (D-Ill.), along with eight of their colleagues, wrote to U.S. Environmental Protection Agency (EPA) Administrator Andrew Wheeler demanding EPA meet all its *Clean Air Act* requirements to protect exposed populations as it begins a National Emission Standards for Hazardous Air Pollutants (NESHAP) rulemaking process for ethylene oxide (EtO) commercial sterilization and fumigation operations.

Specifically, the Senators urged EPA to conduct both a technology review and a residual risk review at the same time in order to identify and reduce the unacceptable risks to public health posed by our nation's major sources of EtO.

**"As you know, EPA's 2018 National Air Toxics Assessment (NATA) provided an overview of facilities emitting EtO and the risks that each facility poses to their surrounding communities. This report identified 25 facilities that emitted EtO at rates high enough to increase cancer risk for the surrounding communities above the EPA's 'acceptable' threshold of 100 per 1 million cancer diagnosis. These risks weigh heavily on us and our constituents," the senators wrote.**

**"Long-term exposure to EtO emissions is linked to an increased risk for cancer, as well as adverse impacts on reproductive health and pregnant women. Short-term exposure can contribute to other issues including respiratory irritation, lung damage, nausea and vomiting," the senators continued. "The agency should comply with its mission and do all it can to reduce these risks to the public."**

In June, Senators Carper, Duckworth and Durbin released a statement (<https://www.duckworth.senate.gov/news/press-releases/duckworth-carper-durbin-statement-on-epas-final-miscellaneous-organic-chemical-manufacturing-eto-rule>) in response to EPA finalizing its rulemaking on Hazardous Air Pollutants, which includes ethylene oxide, from the manufacturing sector.

U.S. Senators Jeff Merkley (D-Ore.), Kamala Harris (D-Calif.), Chris Van Hollen (D-Md.), Ed Markey (D-Mass.), Elizabeth Warren (D-Mass.), Cory Booker (D-N.J.), Dianne Feinstein (D-Calif.) and Kirsten Gillibrand (D-N.Y.) joined Carper, Duckworth and Durbin in sending this letter.

Full text of the letter included below and here (<https://www.duckworth.senate.gov/imo/media/doc/20.07.01%20-%20Letter%20to%20EPA%20on%20ETO%20Sterilizers.pdf>).

July 8, 2020

**VIA ELECTRONIC DELIVERY**

The Honorable Andrew Wheeler

Administrator

U.S. Environmental Protection Agency (EPA)

1200 Pennsylvania Avenue N.W.

Washington, D.C. 20004

Dear Administrator Wheeler:

The U.S. Environmental Protection Agency (EPA) is beginning a National Emission Standards for Hazardous Air Pollutants (NESHAP) rulemaking process for ethylene oxide (EtO) commercial sterilization and fumigation operations. In this process it is imperative that EPA exercise its full authority to regulate EtO under the Clean Air Act (CAA). Specifically, in order to ensure the highest level of protection for exposed populations, we urge EPA to meet its CAA requirements by performing all statutorily required reviews under Section 112 of the CAA. Doing so will ensure that EPA is best positioned to assess and quickly address the cancer and other public health risks posed by our nation's major sources of EtO.

The law requires EPA to perform a Section 112(d)(6) review under the CAA. This section of the law requires EPA to determine the maximum degree of emissions reduction possible for all EtO sources. EPA must also implement the maximum achievable control technology (MACT) at point sources. However, if the agency limits itself to only assessing achievable technology and does not assess any residual risk that cannot be reduced through control technology, risks to public health, including an elevated risk of cancer, may remain after the identified technologies are implemented. In order to identify and address any remaining risks to public health, EPA should exercise its authority to perform a Section 112(f)(2) review in addition to the Section 112(d)(6) review. This second type of review under the CAA requires the EPA to assess whether additional risk reductions are necessary to protect public health or the environment and to then develop any necessary standards to address these remaining risks.



When EPA last assessed EtO emissions standards in 2006, it conducted both a technology review and a residual risk review at the same time. In our view, it is imperative that EPA undertake both types of review for commercial sterilization and fumigation operations in order to identify and reduce the unacceptable risks to public health posed by release of EtO at these facilities. Both types of review are needed because EPA recently identified an EtO cancer risk for these facilities that exceeds EPA's 'acceptable' threshold, and because the human health risks used in the 2006 review have been updated in EPA's 2016 health assessment for the chemical.

As you know, EPA's 2018 National Air Toxics Assessment (NATA) provided an overview of facilities emitting EtO and the risks that each facility poses to their surrounding communities. This report identified 25 facilities that emitted EtO at rates high enough to increase cancer risk for the surrounding communities above the EPA's "acceptable" threshold of 100 per 1 million cancer diagnosis. These risks weigh heavily on us and our constituents. Long-term exposure to EtO emissions is linked to an increased risk for cancer, as well as adverse impacts on reproductive health and pregnant women. Short-term exposure can contribute to other issues including respiratory irritation, lung damage, nausea and vomiting. The agency should comply with its mission and do all it can to reduce these risks to the public.

We ask that EPA provide a response to this letter by July 17, 2020. Specifically, we would like to know whether EPA will perform a 112(f) (2) review under the CAA.

Thank you in advance for your consideration and we look forward to your response. If you have any questions please reach out to Radha Adhar with Senator Duckworth's office at 202-224- 2324 or Annie D'Amato or Michal Freedhoff of the Environment and Public Works Committee staff at 202-224-8832.



Sincerely,

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**FOR RELEASE:** July 8, 2020

**CONTACT:** Jill Farquharson ([mailto:Jill\\_Farquharson@epw.senate.gov](mailto:Jill_Farquharson@epw.senate.gov))

## **Carper, Duckworth, Durbin and Colleagues Urge EPA to Exercise its Full Authority under the Clean Air Act as it Begins EtO Rulemaking Process**

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**Press Releases** (/public/index.cfm/pressreleases?type=press-releases)  
**Energy & Environment** (/public/index.cfm/pressreleases?label=Energy  
&Environment)

Permalink:

<https://www.carper.senate.gov/public/index.cfm/2020/7/carper-duckworth-durbin-and-colleagues-urge-epa-to-exercise-its-full-authority-under-the-clean-air-act-as-it-begins-eto-rulemaking-process>

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