

HEARING OFFICER'S REPORT

TO: The Honorable Shawn M. Garvin
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Lisa A. Vest
Regulatory Specialist, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: Applications of Croda Inc. ("Croda") for two (2) federally enforceable 7 DE Admin. Code 1102 Construction Permits concerning their facility at 315 Cherry Land, New Castle, Delaware (Hearing Docket No. 2023-P-A-0019)

DATE: February 26, 2024

I. BACKGROUND AND PROCEDURAL HISTORY:

A virtual public hearing was held on Wednesday, December 6, 2023, at 6:00 p.m. via the State of Delaware Zoom Meeting Platform by the Department of Natural Resources and Environmental Control ("DNREC" or "Department") to receive comment on the pending applications of Croda Inc. ("Croda" or "Applicant") for two federally enforceable 7 DE Admin. Code 1102 Construction Permits concerning their facility at 315 Cherry Land, New Castle, Delaware, to wit: (1) Proposed Permit APC-2023/0041-CONSTRUCTION (NSPS) (FE) for the installation of two 650-horsepower ("hp") fire pumps fired on No. 2 fuel oil; and (2) Proposed Permit APC-2023/0052-CONSTRUCTION (NSPS)(MNSR)(GACT)(FE) for the installation of one 110-million-BTU-per-hour boiler. (designated Boiler 6) fired on No. 2 fuel oil, natural gas, or a blend of landfill gas and natural gas ("Applications," "proposed project"). Should the Department issue these Draft Permits, and upon completion of construction, the Department will incorporate the operating conditions and limits of the 7 DE Admin. Code 1102 Construction Permits into the facility's existing Title V Permit (AQM-003/00058-Renewal[03]) via Administrative Amendments.

The above Applications were submitted by Croda in accordance with 7 DE Admin. Code 1102, and as provided for under 7 *Del.C.* Ch. 60.

Croda's Atlas Point facility, located at 315 Cherry Land, New Castle, Delaware, is considered a major source, as the facility has the potential to emit greater than the major source threshold for nitrogen oxides, as set forth by the U.S. Environmental Protection Agency ("EPA"). As such, the Applicant's facility is subject to Delaware's Title V Operating Permit Program. Additionally, the facility is a synthetic minor source for both volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"), meaning that the facility has the potential to emit greater than the EPA major source thresholds for these pollutants, but has taken federally enforceable operation limitations in their permits to maintain emissions below such thresholds.

The first Proposed Permit noted above would allow the installation of two 650-hp fire pumps, along with a new 1.2-million-gallon water tank ("Proposed Fire Pumps Permit"). The permit number assigned to this application is APC-2023/0041-CONSTRUCTION (NSPS)(FE). It should be noted that the water tank requires no air permits. The fire pumps will be permitted for emergency use; however, this will also include maintenance and testing. The emissions from the fire pumps (combined) shall not exceed 1.9 tons per year ("TPY") of nitrogen oxides, 0.04 TPY of sulfur oxides, 0.59 TPY of carbon monoxide, 0.04 TPY of VOCs, and 0.061 TPY of particulate matter.

The second Proposed Permit noted above would allow a 110-million-BTU-per-hour boiler, to be fired on No. 2 fuel oil, natural gas, or a blend of natural gas and landfill gas ("Proposed Boiler Permit"). The permit number assigned to this application is APC-2023/0052-CONSTRUCTION (NSPS)(MNSR)(PTE)(GACT)(FE). The boiler would be limited to 1.475 hours per year of operation while fired on No. 2 fuel oil. The boiler would be designated as Boiler 6. Emissions from Boiler 6 shall not exceed 21.7 TPY of nitrogen oxides, 4.8 TPY of sulfur oxides, 6.4 TPY of carbon monoxide, 2.6 of VOCs, and 4.46 TPY of particulate matter.

The Applicant submitted the permit application regarding the proposed installation of the two 650-hp fire pumps to the Department on December 22, 2022, and the permit application regarding the proposed installation of the above-described boiler to the Department on January 18, 2023. On June 5, 2023, DNREC received a revised AQM-5 form for the boiler. On June 9, 2023, DNREC received a second revised AQM-5 form for the same. Following a review of both Applications, the Department prepared the Draft Proposed Permits in this matter and published Legal Notice for the same in both the *Delaware State News* and the *News Journal* on October 29, 2023. The Legal Notices advised the public of the above-described proposed project, the Draft Proposed Permits prepared by the Department, and that a virtual public hearing would be held to consider comments on the proposed project on December 6, 2023. Notice of the public hearing was also placed on the State of Delaware Public Meeting Calendar at that time as well.

Department staff, representatives of the Applicant, and members of the public attended the public hearing held on December 6, 2023. The public hearing was held virtually on the Zoom platform, as noted above, enabling the virtual attendees at this event to use automated closed captioning in their choice of numerous languages (other than English) to further enhance their understanding of the proposed project. Comments received from the public at the time of the public hearing voiced support for the pending Applications. The Record remained open for public comment through December 29, 2023, however, no additional comments were received from the public during that time. Proper notice of the hearing was provided as required by law.

Since the public comments received in this matter voiced support for the Applicant's proposed project, no Technical Response Memorandum was requested from the Department's experts in the Division of Air Quality ("DAQ"). A brief Transmittal Memo ("TM"), dated January 3, 2024, was provided by the DAQ to this Hearing Officer to (1) confirm that the only comments received in this matter were in support of the Applicant's proposed project, and thus no response to the same was necessary; and (2) offer for inclusion into the Hearing Record the two final Proposed Permits for the Applicant's proposed project. It should be noted that the final Proposed Permits will be sent by the Department to the U.S. Environmental Protection Agency ("EPA") for approval, should the Secretary approve the issuance of the same.

For the Secretary’s review, The TM, the final Proposed Fire Pumps Permit, and the final Proposed Boiler Permit are attached hereto as Appendices “A” through “C,” respectively, and are expressly incorporated herein.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The Record consists of the following documents:

(1) The official verbatim Transcript of Proceedings from Veritext Legal Solutions, generated from the virtual public hearing of December 6, 2023;

(2) Fifteen (15) exhibits identified as the Department’s Exhibits regarding the Application as referenced above, introduced by responsible Department staff at the aforementioned hearing, and marked accordingly as “Dept. Exh. 1-15”;

(3) Copy of the Applicant’s presentation offered at the public hearing, marked accordingly by this Hearing Officer as “Applicant’s Exhibit 1,” identified as such on the hearing web page dedicated to this matter under the “Applicant’s Exhibits” section;

(4) TM prepared by the Department’s DAQ, dated January 3, 2024, as noted above, providing the associated final Proposed Permits to be issued by the DAQ, should the Secretary approve this pending permitting matter.

The Department’s person in the DAQ primarily responsible for reviewing these Applications, Eric Rowland, Engineer III, developed the Record with the relevant documents in the Department’s files.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

Currently pending before the Department are the above-described Applications submitted by Croda for the above-described proposed project, specifically, for the installation of two 650-hp fire pumps to be fired on No. 2 fuel oil, and for the installation of one 110-million-BTU-per-hour boiler (designated Boiler 6) to be fired on No. 2 fuel oil, natural gas, or a blend of landfill gas and natural gas. Upon completion of construction the Department will incorporate the operating conditions and limits of the 7 DE Admin. Code 1102 Construction Permits into the facility's existing Title V Permit (AQM-003/00058-Renewal[03]) via Administrative Amendments. As noted above, the Department has not revised the initial Proposed Permits subsequent to the time of the public hearing held in this matter.

I find that the Applicant is required to obtain the requisite permits, for the reasons noted above. I further find that above-described Applications are subject to various state and federal regulatory requirements, including, but not limited to, the requirements of 7 DE Admin. Code 1102, and as provided for under 7 *Del.C.* Ch. 60.

The mission of DNREC is to engage stakeholders to ensure the wise management, conservation, and enhancement of the State's natural resources; protect public health and the environment; provide quality outdoor recreation; improve quality of life; lead energy policy and climate preparedness; and educate the public on historic, cultural, and natural resource use, requirements, and issues. Furthermore, it is the policy of DNREC that no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance, as provided by Title VI of the *Civil Rights Act of 1964*, the *Rehabilitation Act of 1973*, the *Civil Rights Restoration Act of 1987*, and all other related nondiscrimination laws and requirements. In the present matter, the Department has determined that the final Proposed Permits are consistent with the Department's Environmental Justice policy.

I find and conclude that the Record supports submission of both the final Proposed Fire Pumps Permit and the final Proposed Boiler Permit for the Applicant's proposed project, as submitted by Croda to the Department's DAQ in this matter. Pending EPA approval, the final Permits to be issued to Croda by the Department would be consistent with the Draft Permit authorizations prepared by the Department's experts in the DAQ, with appropriate conditions, to ensure continued protection of public health and the environment, and reflective of the Record developed in this matter.

Accordingly, this Report recommends the submission of both final Proposed Permits to the EPA for the Applicant's proposed project, as set forth above, with appropriate conditions.

Further, the Department concludes and specifically directs the following:

1. The Department has jurisdiction, as provided for under 7 DE Admin. Code 1102 and 7 *Del.C.* Ch. 60, and all other relevant statutory authority, to make a final determination on the aforementioned pending Applications after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Applications submitted by Croda, and of the public hearing held on December 6, 2023, and held the hearing to consider any public comments that may be offered on the Applications, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, and all of the associated relevant documents included therein;
4. The Department has carefully considered the factors required to be weighed in issuing all permits and authorizations necessitated by the Applications, and finds that the Record supports approval of the same;

5. Upon EPA approval of the Proposed Permits, the Department shall issue the following authorizations to the Applicant in this matter:(1) Permit APC-2023/0041-CONSTRUCTION (NSPS)(FE), for the installation of two 650-hp fire pumps to be fired on No. 2 fuel oil, as set forth above; and (2) Permit APC-2023/0052-CONSTRUCTION (NSPS)(MNSR)(GACT)(FE), for the installation of one 110-million-BTU-per-hour boiler (designated Boiler 6), as set forth above, thereby authorizing Croda's proposed project, as described above, with the appropriate conditions as set forth herein, consistent with the Draft Permit authorizations prepared by the Department's DAQ, and consistent with the Record developed in this matter, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
7. The Department shall serve and publish its Order on its internet site.

/s/Lisa A. Vest
LISA A. VEST
Regulatory Specialist