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# E.I. DuPont de Nemours and Company and The Chemours Company PFOA Settlements

There are several settlements between the EPA and the E.I. DuPont de Nemours Company and the Chemours Company for the Washington Works facility, located in Washington, West Virginia. These settlements relate to different environmental statutes, including the Clean Water Act, Safe Drinking Water Act, and Toxic Substances Control Act, and they are described in more detail below.

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- [Safe Drinking Water Act \(SDWA\)](#)
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## CWA Settlements

The Washington Works facility discharges industrial process water and stormwater to the Ohio River and its tributaries, under the terms of a National Pollutant Discharge Elimination System (NPDES)

permit issued in 2018 by the West Virginia Department of Environmental Protection. E.I. du Pont de Nemours and Company was the NPDES permit holder at Washington Works until 2015. In 2015, the permit was transferred to Chemours.

The permit imposes discharge limits and requires monitoring of certain pollutants, including PFAS such as perfluorooctanoic acid (PFOA), which was used in the past as a processing aid for manufacturing, and HFPO Dimer Acid (also known as GenX), which replaced PFOA as a processing aid.

On April 26, 2023, EPA and Chemours entered into an administrative compliance order on consent (AOC), where EPA alleges that this facility exceeded permit effluent limits for PFOA and HFPO Dimer Acid on various dates from September 2018 through March 2023, and that Chemours failed to properly operate and maintain all facilities and systems required for permit compliance.

As an initial step in characterizing PFAS in surface water discharges, EPA's order requires Chemours to implement an EPA-approved sampling plan to analyze PFAS and conduct analysis to further understand the presence of PFAS in stormwater and effluent discharged from the facility. Also, Chemours will submit and implement a plan to treat or minimize the discharge of PFAS to ensure compliance with numeric effluent limits of PFOA and HFPO Dimer Acid. In addition, to identify best practices to reduce PFAS discharges from the site, Chemours will submit its existing Standard Operating Procedures relating to the management of wastewater for various systems and its revised Storm Water Pollution Prevention Plan (SWPPP)."

## CWA Settlement Resources

- Administrative Order on Consent  
<[https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/advanced%20search/ffdc5208e597305e8525899e004d1706/\\$file/the%20chemours%20company%20fc%20llc\\_washington%20works\\_cwa%20aoc\\_april%2026%202023.pdf](https://yosemite.epa.gov/oa/rhc/epaadmin.nsf/advanced%20search/ffdc5208e597305e8525899e004d1706/$file/the%20chemours%20company%20fc%20llc_washington%20works_cwa%20aoc_april%2026%202023.pdf)>
- CWA Settlement Press Release  
<<https://epa.gov/newsreleases/epa-takes-first-ever-federal-clean-water-act-enforcement-action-address-pfas>>

# SDWA settlements

In 2002, EPA entered into an emergency administrative order under the Safe Drinking Water Act on consent agreement with DuPont in which DuPont agreed to provide alternative drinking water or treatment for public or private water users living near the Washington Works facility in Washington, West Virginia if the level of PFOA detected in their drinking water was greater than the PFOA screening level established by a C-8 Assessment of Toxicity team, which was formed pursuant to a state order and established the screening level for PFOA at 150 parts per billion (ppb).

In 2006, after science on health effects of PFOA evolved, we entered into a second emergency administrative order that replaced the 2002 order and established a site-specific action level equal to or greater than 0.50 ppb.

In 2009, after our scientists established a provisional health advisory for PFOA of 400 parts per trillion or 0.40 ppb to address short-term exposure to PFOA, we entered into a third emergency administrative order with DuPont that replaced the 2006 order and lowered the allowable concentration of PFOA in drinking water from 0.50 ppb to 0.40 ppb in communities near the facility. The provisional health advisory for PFOA was based on available evidence at that time.

In 2017, the 2009 order was amended based on new site-specific information and EPA's May 19, 2016, issuance of a Lifetime Health Advisory (LHA) of 70 parts per trillion (ppt) for PFOA. Under the amended order, any public or private drinking water supply in the sampling area with results over 70 ppt shall receive alternate water or treatment and any results between 50 ppt - 70 ppt shall be monitored for four consecutive quarters.

## SDWA Settlement Resources

- Administrative Orders on Consent  
<<https://epa.gov/enforcement/safe-drinking-water-act-settlement-resources-ei-dupont-de-nemours-settlement>>
- Washington Works History and SDWA  
<<https://epa.gov/oh/chemours-washington-works-0>>

Additionally, the 2017 Amendment reflects changes to Washington Works facility ownership from E.I. DuPont de Nemours and Company to the Chemours Company, as well as the corporate reorganization between the two companies.

Each of the SDWA orders were based on site-specific information, including information gathered as part of the TSCA/RCRA settlement, that warranted action by EPA at the time.

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## **TSCA/RCRA settlement**

On December 14, 2005, EPA forwarded to the Environmental Appeals Board (Board) a settlement with E.I du Pont de Nemours and Company (DuPont) for the largest civil administrative penalty EPA has ever obtained under any federal environmental statute. The settlement resolves DuPont's violations related to the synthetic chemical perfluorooctanoic acid (PFOA) under the Toxic Substances Control Act (TSCA) and the Resource Conservation and Recovery Act (RCRA), which includes the four violations alleged in the Agency's two complaints filed against DuPont in July and December 2004,) and settles four additional counts involving information about PFOA that EPA obtained after initiating its action against DuPont. The settlement package requires DuPont to pay \$10.25 million in civil penalties and perform Supplemental Environmental Projects worth \$6.25 million.

## **TSCA/RCRA Settlement Supplemental Environmental Projects (SEPs)**

### **Fluorotelomer-based Product Biodegradation Testing SEP**

The Biodegradation SEP will investigate the biodegradation potential of certain chemicals to breakdown to form PFOA. The SEP, valued at \$5

million and to be completed in 3 years, will evaluate nine of DuPont's commercial fluorotelomer-based products in commerce prior to the settlement. Using two types of biodegradation studies, the SEP will help the public to better understand the inherent degradation potential of fluorotelomer-based products to form PFOA and the behavior of such products when released to the environment. DuPont will use independent laboratories to perform all work associated with the Biodegradation SEP and will hire an independent third party to serve as a Panel Administrator for a Peer Consultation Panel. The Peer Consultation Panel will address specific charges related to the biodegradation studies. The public will have the opportunity to nominate Peer Consultation Panel members. DuPont has agreed to require the laboratories it contracts with to follow the Agency's Good Laboratory Practices regulations as well as prepare and follow a Quality Assurance Project Plan.

DuPont and EPA agreed to amend the Biodegradation SEP after initial testing proved more difficult than anticipated. The amendment extended the timeframe for additional testing through 2013 to allow time to develop methods for analysis. After multiple attempts to characterize the chemicals by the independent lab and after review of the work by the Peer Consultation panel, the EPA and DuPont jointly agreed to modify the SEP to have the remaining funds (\$1.5 million) be applied to PFOA related research by universities. On December 13, 2013, a consent order required DuPont to use the remaining SEP funds to purchase analytical instruments for two universities approved by EPA.

## TSCA/RCRA Settlement Resources

- CAFO and EAB Transmittal Memo for DuPont PFOA Settlement  
<<https://epa.gov/enforcement/duPont-consent-agreement-and-final-order-docket-no-tsca-hq-2004-0016-docket-no-rcra-hq>>
- Press Advisory  
<[https://archive.epa.gov/epapages/newsroom\\_archive/newsreleases/9ee5c73286ddf6f9852570d7004c6f02.html](https://archive.epa.gov/epapages/newsroom_archive/newsreleases/9ee5c73286ddf6f9852570d7004c6f02.html)> - EPA Files Claim Alleging DuPont Withheld PFOA Information
- Prehearing Exchange and Complaints  
<<https://epa.gov/enforcement/complaint-ei-dupont-de-nemours-and-company>>

The equipment is intended to be used for research on the presence of perfluorinated compounds in people or the environment, or research on how these chemicals react in the environment.

## **Microscale Chemistry and Green Chemistry SEP**

DuPont will spend \$1.25 million to implement over an expected 3-year period the Microscale and Green Chemistry SEP, a SEP that will foster curriculum change in 7 schools in Wood County to reduce risk posed by chemicals using microscale chemistry, which reduces exposure to chemicals, and green chemistry, an approach that uses safer chemicals. The goals of this SEP include reducing the adverse impact to public health by minimizing the potential exposure to chemicals in schools, avoiding subsequent disposal issues for these materials, and enhancing science safety in all of the schools involved in the SEP. This SEP will involve close coordination with teachers and administrators in the participating schools.

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