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west virginia department of environmental protection

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Division of Water and Waste Management  
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Harold D. Ward, Cabinet Secretary  
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**CONSENT ORDER  
ISSUED UNDER THE  
WATER POLLUTION CONTROL ACT  
WEST VIRGINIA CODE CHAPTER 22, ARTICLE 11**

TO: The Chemours Company FC, LLC  
James W. Hollingsworth  
PO Box 1217  
Washington, WV 26181

DATE: May 2, 2024  
ORDER NO.: 10273

**INTRODUCTION**

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter “Director”), under the authority of West Virginia Code 22-11-1 et seq. to The Chemours Company FC, LLC (hereinafter “Chemours”).

**FINDINGS OF FACT**

In support of this Order, the Director hereby finds the following:

1. Chemours operates a facility located in Washington, Wood County, West Virginia. On July 30, 2018, WV/NPDES Water Pollution Control Permit No. WV0001279 was reissued to Chemours. The WV/NPDES permit was subsequently administratively extended until September 30, 2024. Among other provisions, the WV/NPDES permit authorizes Chemours to discharge treated industrial wastes from Outlet No. 005 into the Ohio River.
2. On January 12, 2024, Chemours provided WVDEP with notification of the intent to initiate Granular Activated Carbon (GAC) treatment of the R&D B-22 sump water. The treatment was proposed as a means of reducing the discharge of fluorinated organic compounds, including HFPO Dimer Acid, from Outlet No. 005.
3. On March 19, 2024, Chemours sent correspondence to WVDEP which stated that the GAC treatment system had been constructed. Acquiring, constructing, installing, modifying, or operating any part of a disposal system for the discharge of industrial wastes into waters of the State without authorization under the terms/conditions of a WV/NPDES permit is a violation of WV State Code 22-11-8(b)(3). As such, Chemours

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requested entrance into a consent order with WVDEP which would include provisions for implementing GAC treatment until such time when the extended WV/NPDES permit is reissued.

### **ORDER FOR COMPLIANCE**


Now, therefore, in accordance with West Virginia State Code 22-11-1 et seq., it is hereby agreed between the parties, and ORDERED by the Director:

1. Chemours shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Upon the effective date of this Order, WVDEP grants temporary approval for Chemours' implementation of the GAC treatment system, as described in the aforementioned January 12, 2024 and March 19, 2024 correspondence. Temporary approval for implementation of the GAC treatment system shall expire upon reissuance of Chemours' WV/NPDES permit, at which time Chemours shall comply with all terms and conditions of the valid WV/NPDES permit. Temporary approval is strictly limited to the GAC treatment system. Additional alterations which could enlarge and/or add to the load of Outlet No. 005 are not allowed under the terms and conditions of this Order and are prohibited by WV State Code 22-11-8. Should any violations of the terms and conditions of this Order occur and/or should the implementation of the GAC treatment system result in any violation of pertinent laws/rules, Chemours shall immediately cease implementation of the GAC treatment system.
3. Within twenty (20) days of the effective date of this Order, Chemours shall ensure that all required information regarding the GAC treatment system is submitted as an amendment to the WV/NPDES permit reissuance application which was submitted on March 7, 2023. Any questions regarding modification of the existing WV/NPDES permit reissuance application shall be directed to WVDEP DWWM-Permitting Section at (304) 926-0495.
4. This Order shall terminate upon the reissuance of WV/NPDES Water Pollution Control Permit No. WV0001279.

### **OTHER PROVISIONS**

1. Chemours hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-11-21. Under this Order, Chemours agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Chemours does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Chemours other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.

3. If any event occurs which causes delay in the achievement of the requirements of this Order, Chemours shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Chemours becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Chemours shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Chemours intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Chemours (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.
4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Chemours of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Chemours to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Chemours, its successors and assigns.
7. This Order shall terminate upon Chemours's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.

  
James W. Hollingsworth  
The Chemours Company FC, LLC

6/20/2024  
Date

Public Notice begin:

\_\_\_\_\_  
Date

Public Notice end:

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Date

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Jeremy W. Bandy, Director  
Division of Water and Waste Management

\_\_\_\_\_  
Date