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

AUG 0 8 2019

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Ms. Alexa Dembek
Chief Technology & Sustainability Officer
DuPont de Nemours, Inc.
974 Centre Rd.
Wilmington, DE 19805

VIA USPS

Re: Information Request pursuant to Section 308 of the Clean Water Act

Dear Ms. Dembek:

Pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, the U.S. Environmental Protection Agency hereby requests that the DuPont de Nemours, Inc. ("DuPont") provide the information set forth in Enclosure D ("Information Request Questions"). DuPont is required to respond to Questions 1 - 7 of this information request within 30 days of physical receipt of this letter. DuPont is required to respond to Questions 8 - 9 of this information request within 60 days of physical receipt of this letter. Please direct DuPont's response to:

Charlie A. Collins, II
Environmental Scientist
U.S. Environmental Protection Agency
Office of Civil Enforcement
Mail Code 2243-A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

DuPont's response should specifically reference the particular section and item number of the request and should be organized for the purpose of clarity. In addition, all information submitted must be accompanied by the following certification signed by a responsible DuPont official in accordance with 40 C.F.R. § 122.22:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on any personal knowledge I may have and my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true, accurate,

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and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply with this information request may result in enforcement proceedings under Section 309 of the CWA, 33 U.S.C. § 1319, which could result in the judicial imposition of civil or criminal penalties or the administrative imposition of civil penalties. In addition, there is potential criminal liability for the falsification of any response to the requested information.

DuPont shall preserve, until further notice, all records (either written or electronic), which exist at the time of receipt of this letter that relate to any of the matters set forth in this letter. The term "records" shall be interpreted in the broadest sense to include information of every sort. The response to this information request shall include assurance that these record protection provisions were put into place, as required. No such records shall be disposed of until written authorization is received from EPA.

DuPont cannot withhold from EPA what it may consider to be confidential business information. However, DuPont has the discretion to assert, at the time of submission, a claim of business confidentiality for part or all of the requested information by following the requirements at 40 C.F.R. § 2.203(b). EPA will not disclose any information covered by such a claim except as authorized by 40 C.F.R. Part 2, Subpart B. If no claim of business confidentiality is received with DuPont's submission, EPA may make the information available to the public without further notice. All confidentiality claims are subject to EPA verification.

If you have questions regarding this notice and information request, please contact Gracie Pendleton (202-564-2588; pendleton.gracie@epa.gov) or me (202-564-4001; pollins.mark@epa.gov).

Sincerely,

Mark Pollins, Director
Water Enforcement Division
Office of Civil Enforcement

Enclosures

Enclosure A:
Instructions

1. Identify the person(s) responding to each question or subpart of a question in this Information Request.

2. Provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.

3. Precede each answer with the text and the number of the question and its subpart to which the answer corresponds.

4. Each document submitted must contain a notation indicating the question and subpart of the question to which it is responsive.

5. In answering each Information Request question and subpart thereto, identify all documents and persons consulted, examined, or referred to in the preparation of each response and provide true and accurate copies of all such documents.

6. If information not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA thereof as soon as possible.

7. Where specific information has not been memorialized in a document, but is nonetheless responsive to a question, respond to the question with a written response.

8. Please provide all information in your possession that is responsive to this Information Request, regardless of whether the response relates to your activities or the activities of another entity.

9. If information responsive to this Information Request is not in your possession, custody, or control, then identify the person(s) from whom such information may be obtained.

10. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.

11. Please provide all documents in an electronic format compatible with PDF.

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12. Please provide any spreadsheet information in electronic format compatible with MS Excel.

13. For responses to questions 8-9 please provide an index, cross referenced if appropriate, identifying the question and/or specific subpart of the question addressed by each response.

14. If any question relates to activities undertaken by entities other than the recipient of this Information Request, and to the extent that you have information pertaining to such activities, provide such information for each entity.

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Enclosure B:
Definitions

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act, or its implementing regulations, in which case the statutory or regulatory definitions shall control.

2. The term "DuPont" shall mean DuPont de Nemours, Inc., DowDuPont Inc., E. I. du Pont de Nemours and Company, Dow Inc., and Corteva.

3. The term "PFAS" shall mean per- and polyfluoroalkyl substance(s), including, but not limited to: "GenX" compounds (CAS # 13252-13-6, CAS # 62037-80-3, C3 Dimer Acid, C3 Dimer Acid Fluoride, C3 Dimer Acid Ammonium Salt, HFPO-Dimer Acid, HFPO-Dimer Acid Ammonium Salt); Perfluorobutanoate (PFBA); Perfluoro-n-pentanoic acid (PFPeA); Perfluorohexanoic acid (PFHxA); Perfluoroheptanoic acid (PFHpA); Perfluorooctanoic acid (PFOA); Perfluorononanoic acid (PFNA); Perfluorodecanoic acid (PFDA); Perfluoroundecanoic acid (PFUnA); Perfluorododecanoic acid (PFDoA); Perfluorotridecanoic acid (PFTriA); Perfluorotetradecanoic acid (PFTeA); Perfluorobutanesulfonic acid (PFBS); Perfluorohexanesulfonic acid (PFHxS); Perfluorooctanesulfonic acid (PFOS); Perfluorooctanesulfonamide (PFOSA); PFESA Byproduct 1 (CAS # 29311-67-9); PFESA Byproduct 2 (CAS # 749836-20-2); PFMOAA (CAS # 674-13-5); PFO2HxA (CAS # 39492-88-1); PFO3OA (CAS # 39492-89-2).

4. The term "GenX" shall mean the GenX Technology Processing Aid (both the ammonium salt and its free acid version) and the chemicals identified by CAS # 13252-13-6 or CAS # 62037-80-3 or by any one of the following names C3, C3 Dimer Acid, C3 Dimer Acid Fluoride, C3 Dimer Acid Ammonium Salt, HFPO, HFPO-Dimer Acid, HPFO-Dimer Acid Fluoride, HFPO-Dimer Acid Ammonium Salt.

5. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.

6. The term "discharge" or "discharge of pollutants" shall mean any action within the meaning of these terms, as defined at Section 502 of the CWA, 33 U.S.C. § 1362, and all regulations promulgated thereunder.

7. The term "identify" means, with respect to a natural person, to set forth the person's name, job title, position or business, business address and business telephone number.

8. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and substance of the subject matter.

9. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

10. The term "You" and "Your" shall mean DuPont and/or any of its agents, employees or contractors.

11. The term "NPDES" or "NPDES Permit" shall mean the National Pollutant Discharge Elimination System permit issued pursuant to the Clean Water Act.

12. The term "stormwater" shall mean stormwater runoff, snow melt runoff, and surface runoff and drainage.

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Enclosure C:
Confidential Business Information

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Information Request for any business information entitled to confidential treatment under Section 308(b) of the CWA, 33 U.S.C. § 1318, and 40 C.F.R. Part 2, subpart B. Under Section 308(b) of the CWA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means "the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information." 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 308(b) of the CWA and 40 C.F.R. Part 2, subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Information Request as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential" at the time you submit your response to this Information Request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. *See* 40 C.F.R. §§ 2.208 (a)-(e). Effluent data, as defined at 40 C.F.R. § 2.302(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. *See* 33 U.S.C. § 1318(b); 40 C.F.R. § 2.302(e). If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Information Request, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are allegedly to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information

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subject to your claim.

2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of that harm, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?

7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests concurrent with your response to this Information Request if you have claimed any information as business confidential. *See* 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline.

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The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Gracie Pendleton
Attorney-Adviser
U.S. Environmental Protection Agency
Office of Civil Enforcement
Mail Code 2243-A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 308(b) of the CWA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.

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Enclosure D:
Information Request Questions

In answering each question below and subpart thereto, identify all documents consulted, examined, or referred to in the preparation of each response and provide true and accurate copies of all such documents. In answering each question below and subpart thereto, identify each PFAS specifically (e.g., PFOA), and not PFAS generally.

1. Identify the person to contact regarding your response, including title, address, and phone number.

2. Identify the date on which DuPont contends PFAS-related environmental liability transferred to Chemours. Identify and provide any documents purporting to transfer such liability to Chemours.

3. Identify all actual or potential environmental liabilities that DuPont transferred to Chemours.

4. Identify the facilities or parts of facilities that were transferred to Chemours. Identify the date on which each facility or parts of facilities were transferred to Chemours and identify for each such facility the timeframe when PFAS was manufactured, received, or processed.

5. Identify all facilities historically or currently owned and/or operated by DuPont that, either historically or currently, manufacture, receive, and/or process PFAS.

6. Identify each facility historically or currently owned and/or operated by DuPont that, either historically or currently, has discharged, released, spilled, or leaked at any time in the past PFAS.

7. Identify all facilities historically or currently owned and/or operated by DuPont that had or have an NPDES permit condition for PFAS discharges, NPDES permit limitations for PFAS discharges, or any authorization to discharge PFAS. For each such facility, identify specifically which PFAS (by Chemical Abstracts Service Registry Number ("CAS Number")) were or are covered by such NPDES permit conditions, NPDES permit limitations, or authorizations to discharge. Further, identify the substantive coverage provided in the NPDES permit conditions, NPDES permit limitations, or authorizations to discharge.

8. Identify all facilities, not owned or operated by DuPont, to which DuPont has distributed PFAS for further processing, use, treatment, or disposal.
    a. For each such facility, identify the specific PFAS (by CAS Number) that are distributed.
    b. For each such facility, identify the amounts of PFAS that are distributed.

c. For each such facility, identify the method of transport for such distribution.

9. For any facility identified in question 5, 6, and 7 since January 1, 2014, please provide the following:

   a. Information on PFAS in effluent discharged from NPDES-permitted outfalls at the facility, including:
      i. A description of the discharge of any level of any PFAS;
      ii. Sampling results showing any level of any PFAS in the discharge;
      iii. Monitoring results showing any level of any PFAS in the discharge, and
      iv. A description of the starting (and ending, if applicable) dates of discharge of any level of any PFAS.

      For each answer to subquestion i. through subquestion iv., above, specify the particular PFAS analyte identified and, for subquestion ii. and subquestion iii.. the resulting level measured or detected.

   b. Information on whether and how PFAS are discharged, released, spilled, or leaked through pathways or outfalls not specifically identified in NPDES Permits (e.g., via channelized stormwater flows, terra cotta pipes, abandoned ditches, unlined former outfalls, erosion channels, or other runoff points), including:
      i. A description of the nature of such discharge, release, spill, or leak, containing any level of any PFAS;
      ii. Sampling results showing any level of any PFAS in such discharges, releases, spills, or leaks;
      iii. Monitoring results showing any level of any PFAS in such discharges, releases, spills, or leaks; and
      iv. The starting (and ending, if applicable) dates of discharges, releases, spills, or leaks containing any level of any PFAS.

      For each answer to subquestion i. through subquestion iv., above, specify the particular PFAS analyte identified and, for subquestion ii. and subquestion iii.. the resulting level measured or detected.

   c. Information on whether and how air emissions from the facility contribute to any level of any PFAS in groundwater or surface water.

   d. All analytical results of groundwater samples collected on- and off-site by DuPont for the purpose of determining PFAS contamination, including results from all wells (specifying each individual well), whether or not such well is currently in service.

For each on-site sampling result:

i. State whether the well was in service at the time of sampling;
ii. State whether the sample was taken before or after treatment; and
iii. State whether the sample has been blended with water from a different location or source.

For each off-site sampling result:

i. State the latitude and longitude or address for each result.

e. Information on treatment utilized at the facility to reduce or eliminate PFAS in groundwater or surface water.

f. Information on disposal of PFAS from the facility to groundwater or surface water.

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