



NORTH CAROLINA  
Environmental Quality

March 31, 2021

ROY COOPER

Governor

DIONNE DELLI-GATTI

Secretary

S. DANIEL SMITH

Director

**CERTIFIED MAIL # 7018 1830 0001 8037 1103**  
**RETURN RECEIPT REQUESTED**

Dawn Hughes  
The Chemours Company FC LLC  
22828 NC Highway 87 W  
Fayetteville, NC 28306-7332

**SUBJECT: Assessment of Civil Penalty for Violations of the Reporting Requirements**  
NPDES Permit NC0089915  
Chemours Company-Fayetteville Works  
Case No. LV-2021-0079  
Bladen County

Dear Permittee:

Pursuant to NCGS 143-215.6A, the Division of Water Resources assessed a civil penalty to the Chemours Company FC LLC for multiple violations of NPDES permit NC0089915. This action was undertaken by the authority vested in me pursuant to delegation provided by the Secretary of the Department of Environmental Quality. This letter transmits a notice of a civil penalty assessed against the Chemours Company FC LLC in the amount of **\$38,437.16** (includes \$1,187.16 in enforcement costs).

Within **thirty days** of receipt of this notice, you must do **one** of the following:

**1. Submit payment of the penalty:**

Payment should be made directly to the order of the Department of Environmental Quality (*do not include waiver form*). Payment of the penalty will not foreclose further enforcement action for any continuing or new violation(s). Please submit payment to the attention of:

Division of Water Resources  
Wastewater Branch  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

**OR**

**2. Submit a written request for remission or mitigation including a detailed justification for such request:**

Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed.



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Because a remission request forecloses the option of an administrative hearing, such a request must be accompanied by a waiver of your right to an administrative hearing and a stipulation and agreement that no factual or legal issues are in dispute. Please prepare a detailed statement that establishes why you believe the civil penalty should be remitted, and submit it to the Division of Water Resources at the address listed below. In determining whether a remission request will be approved, the following factors shall be considered:

- (1) whether one or more of the civil penalty assessment factors in NCGS 143B-282.1(b) was wrongfully applied to the detriment of the petitioner;
- (2) whether the violator promptly abated continuing environmental damage resulting from the violation;
- (3) whether the violation was inadvertent or a result of an accident;
- (4) whether the violator had been assessed civil penalties for any previous violations; or
- (5) whether payment of the civil penalty will prevent payment for the remaining necessary remedial actions.

Please note that all evidence presented in support of your request for remission must be submitted in writing. The Director of the Division of the Division of Water Resources will review your evidence and inform you of his decision in the matter of your remission request. The response will provide details regarding the case status, directions for payment, and provision for further appeal of the penalty to the Environmental Management Commission's Committee on Civil Penalty Remissions (Committee). Please be advised that the Committee cannot consider information that was not part of the original remission request considered by the Director. Therefore, it is very important that you prepare a complete and thorough statement in support of your request for remission.

In order to request remission, you must complete and submit the enclosed "Request for Remission of Civil Penalties, Waiver of Right to an Administrative Hearing, and Stipulation of Facts" form within thirty (30) days of receipt of this notice. The Division of Water Resources also requests that you complete and submit the enclosed "Justification for Remission Request." Both forms should be submitted to the following address:

Division of Water Resources  
Wastewater Branch  
1617 Mail Service Center  
Raleigh, North Carolina 27699-1617

**OR**

**3. File a petition for an administrative hearing with the Office of Administrative Hearings:**

If you wish to contest any statement in the attached assessment document you must file a petition for an administrative hearing. You may obtain the petition form from the Office of Administrative Hearings. You must file the petition with the Office of Administrative Hearings within thirty (30) days of receipt of this notice. A petition is considered filed when it is received in the Office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m., except for

official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings. The petition may be faxed provided the original and one copy of the document is received in the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, North Carolina 27699-6714  
Telephone (919) 733-2698 Facsimile: (919) 733-3478

**AND**

Mail or hand-deliver a **copy** of the petition to:

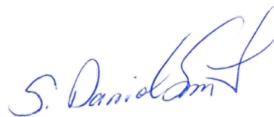
General Counsel  
Department of Environment and Natural Resources  
1601 Mail Service Center  
Raleigh, North Carolina 27699-1601

Please indicate the case number (as found on page one of this letter) on the petition.

Failure to exercise one of the options above within thirty (30) days of receipt of this letter, as evidenced by an internal date/time received stamp (not a postmark), will result in this matter being referred to the Attorney General's Office for collection of the penalty through a civil action. Please be advised that additional penalties may be assessed for violations that occur after the review period of this assessment.

If you have any questions, please contact Danny Smith at 919-707-9014.

Sincerely,



S. Daniel Smith  
Director, Division of Water Resources

**ATTACHMENTS**

cc: DWR Fayetteville Regional Office  
NC0089915 Enforcement File  
Laserfiche  
David Shelton, Chemours Company FC, LLC  
Christel Compton, Chemours Company FC, LLC  
Kevin Garon, Chemours Company FC, LLC  
Dawn Hughes, Chemours Company FC, LLC  
Todd Coomes, Chemours Company FC, LLC

Chemours Company-Fayetteville Works

Case No.: LV-2021-0079

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John Savarese

Joel Gross

Thomas Santoro

Geoff Gisler, SELC

Kemp Burnette, Cape Fear River Watch

STATE OF NORTH CAROLINA

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

COUNTY OF BLADEN

IN THE MATTER OF ASSESSMENT  
OF CIVIL PENALTIES AGAINST  
CHEMOURS COMPANY FC LLC

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**WAIVER OF RIGHT TO AN  
ADMINISTRATIVE HEARING AND  
STIPULATION OF FACTS**

PERMIT NO. NC0089915

**FILE NO. LV-2021-0079**

Having been assessed civil penalties totaling **\$38,437.16** for violation(s) as set forth in the assessment document of the Division of Water Resources dated **March 31, 2021**, the undersigned, desiring to seek remission of the civil penalty, does hereby waive the right to an administrative hearing in the above-stated matter and does stipulate that the facts are as alleged in the assessment document. The undersigned further understands that all evidence presented in support of remission of this civil penalty must be submitted to the director of the Division of Water Resources within thirty (30) days of receipt of the notice of assessment. No new evidence in support of a remission request will be allowed after (30) days from the receipt of the notice of assessment.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
SIGNATURE

ADDRESS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE

\_\_\_\_\_

**JUSTIFICATION FOR REMISSION REQUEST**

**DWR Case Number:** LV-2021-0079 **County:** Bladen

**Assessed Entity:** Chemours Company FC LLC – Chemours Company-Fayetteville Works

**Permit No.:** NC0089915 **Amount Assessed:** \$ 38,437.16

Please use this form when requesting remission of this civil penalty. You must also complete the “*Request For Remission, Waiver of Right to an Administrative Hearing, and Stipulation of Facts*” form to request remission of this civil penalty. You should attach any documents that you believe support your request and are necessary for the Director to consider in evaluating your request for remission. Please be aware that a request for remission is limited to consideration of the five factors listed below as they may relate to the reasonableness of the amount of the civil penalty assessed. Requesting remission is not the proper procedure for contesting whether the violation(s) occurred or the accuracy of any of the factual statements contained in the civil penalty assessment document. Pursuant to N.C.G.S. § 143B-282.1(c), remission of a civil penalty may be granted only when one or more of the following five factors apply. Please check each factor that you believe applies to your case and provide a detailed explanation, including copies of supporting documents, as to why the factor applies (attach additional pages as needed).

- (a) one or more of the civil penalty assessment factors in N.C.G.S. 143B-282.1(b) were wrongfully applied to the detriment of the petitioner (*the assessment factors are listed in the civil penalty assessment document*);
- (b) the violator promptly abated continuing environmental damage resulting from the violation (*i.e., explain the steps that you took to correct the violation and prevent future occurrences*);
- (c) the violation was inadvertent or a result of an accident (*i.e., explain why the violation was unavoidable or something you could not prevent or prepare for*);
- (d) the violator had not been assessed civil penalties for any previous violations;
- (e) payment of the civil penalty will prevent payment for the remaining necessary remedial actions (*i.e., explain how payment of the civil penalty will prevent you from performing the activities necessary to achieve compliance*).

**EXPLANATION:**

STATE OF NORTH CAROLINA  
COUNTY OF BLADEN

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY

IN THE MATTER OF )  
CHEMOURS COMPANY FC LLC )  
)  
)  
)  
FOR VIOLATIONS OF: )  
PERMIT NO. NC0089915 )  
)

CASE NO. LV-2021-0079  
FINDINGS AND DECISION  
AND ASSESSMENT OF  
CIVIL PENALTIES

Acting pursuant to North Carolina General Statute (G.S.) 143-215.6A, I, S. Daniel Smith, of the Division of Water Resources (hereby known as DWR), make the following:

I. FINDINGS OF FACT

- A. The Chemours Company FC LLC (Chemours) is a Delaware limited liability company registered and doing business in the State of North Carolina.
- B. Chemours operates a facility known as the Chemours Company-Fayetteville Works (Facility) in Bladen County.
- C. On September 18, 2020, Chemours was issued a National Pollution Discharge Elimination System (NPDES) permit NC0089915 for a treatment system to remediate contaminated surface/groundwater from per- and polyfluoroalkyl substances (PFAS) compounds in an old outfall at the Facility often referred to as “Old Outfall 002” pursuant to an application received on February 25, 2020. The treatment system discharges into an unnamed tributary to the Cape Fear River, a waterbody currently classified WS-IV in the Cape Fear River Basin.
- D. On January 26, 2021, DWR issued a Notice of Violation & Intent to Assess Civil Penalty and Stipulated Penalty (NOV-2021-PC-0047; NOV) to Chemours. The NOV cited violations of conditions of NPDES Permit No. NC0089915 (Permit), including effluent limits, minimum capture and treatment requirements, operation and maintenance requirements, and mitigation requirements.<sup>1</sup>
- E. On February 25, 2021, Chemours submitted a response to the NOV.
- F. DWR conducted a review of the October 2020 and November 2020 Discharge Monitoring Reports (DMRs) submitted by Chemours, logs maintained by the operator in responsible charge (ORC) of the treatment system, Chemours’ written response to the

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<sup>1</sup> The NOV also addressed violations of the requirements of the consent order entered by the Bladen County Superior Court on February 25, 2019. Those violations are outside the scope of this civil penalty assessment.

NOV, and other correspondence received from Chemours regarding operational issues at the facility in October and November. In addition, DWR staff conducted site visits on September 30, 2020, November 6, 2020, November 17, 2020, and December 18, 2020. DWR's investigation revealed the following:

- Chemours failed to capture and treat the minimum dry weather flow of 610 gallons per minute (gpm) on October 11, 2020 through October 21, 2020 and on November 24, 2020 through November 29, 2020, excluding October 13, 2020 and November 25, 2020.
- Chemours recorded a PFMOAA concentration of 1.2 µg/L on October 29, 2020.
- Chemours failed to properly maintain and monitor the internal carbon vessel to prevent a PFOAA daily maximum limit exceedance on October 29, 2020.
- The treatment works was shut down from approximately 10:00pm on November 12, 2020 to 12:15am on November 13, 2020. The permittee failed to treat 610 gpm from November 13, 2020 to November 18, 2020. This shutdown and subsequent failure to treat 610 gpm were precipitated by a 2-day storm event, which began on November 11, 2020, resulted in over 7 inches of rainfall, and caused the Cape Fear River to reach flood stage on November 13, 2020. Flood stage of the Cape Fear River can cause flooded backwater conditions at the treatment works, and the issued NPDES permit allows treatment to be suspended when water levels are equal to or significantly greater than the invert elevation of the treatment system intake dam and associated pumping system.
- According to correspondence received from Chemours dated February 25, 2021, Chemours made manual calculation errors which resulted in reduced capture and treatment of stream flow on November 24, 2020 through November 29, 2020, excluding November 25, 2020.

G. The NPDES permit NC0089915 contained the following relevant permit conditions:

**Part I, A. (1.) Effluent Limitations and Monitoring Requirements – Outfall 003:**

This permit condition includes numeric effluent limits on concentrations of certain PFAS, including PFMOAA. The effluent daily maximum limit for PFMOAA is 0.85 µg/L.

**Part I, A. (1.) Effluent Limitations and Monitoring Requirements – Outfall 003:**

“The facility shall develop a Dam (collection system) Operation and Maintenance Plan (Plan) to ensure maximum dry weather flow (~ 610 gpm) in the channel is consistently captured and treated. Similar efforts shall be applied at the sumps/dams or other devices that will be used to capture water from the seeps.”

**Part II, C. (2.) Proper Operation and Maintenance:**

“The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.”

H. The cost to the State of the enforcement procedures in this matter totaled \$1,187.16.



Based upon the above Finding of Fact, I make the following:

## II. CONCLUSIONS OF LAW

- A. Chemours is a 'person' within the meaning of G.S. 143-215.6A pursuant to G.S. 143-212(4).
- B. Chemours' treatment system (NDPES permit NC0089915) discharges into an unnamed tributary to the Cape Fear River, a waterbody currently classified WS-IV in the Cape Fear River Basin. The unnamed tributary to Cape Fear River constitutes waters of the State within the meaning of G.S. 143-212(6).
- C. Chemours was issued NDPES permit NC0089915 in accordance with G.S. 143-215.1(a) for the operation and maintenance of a treatment facility for the Chemours Company-Fayetteville Works in Bladen County, North Carolina.
- D. From October 11, 2020 to October 21, 2021 (excluding October 13, 2020), Chemours failed to capture and treat dry weather flow of 610 gpm, violating NDPES permit NC0089915 Part I, A. (1.) Effluent Limitations and Monitoring Requirements - Outfall 003.
- E. On October 29, 2020, Chemours violated Part I, A. (1.) Effluent Limitations and Monitoring Requirements – Outfall 003 PFMOAA effluent limit of 0.85µg/L. The daily value reported was 1.2 µg/L.
- F. On October 29, 2020, Chemours violated the operation and maintenance requirements set forth in Part II, Condition C. (2.) by failing to adequately maintain and monitor the internal carbon vessel to prevent a permit limit exceedance.
- G. From November 24, 2020 to November 29, 2020 (excluding November 25, 2020), Chemours violated NDPES permit NC0089915 Part II, Condition C. (2.) Operation and Maintenance by making manual calculation errors, which resulted in reduced capture and treatment of stream flow.
- H. Chemours may be assessed civil penalties in this matter pursuant to G.S. 143-215.6A (a)(2), which provides that a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation per day may be assessed against a person who is required but fails to apply for or to secure a permit required by G.S. 143-215.1, or who violates or fails to act in accordance with the terms, conditions, or requirements of such permit or any other permit or certification issued pursuant to authority conferred by this Part.
- I. The State's enforcement cost in this matter may be assessed against Chemours pursuant to G.S. 143-215.3 (a)(9) and G.S. 143B-282.1(b)(8).

J. S. Daniel Smith, Director of the Division of Water Resources, pursuant to delegation provided by the Secretary of the Department of Environmental Quality, has the authority to assess civil penalties in this matter.

Based upon the above Findings of Fact and Conclusions of Law, I make the following:

III. DECISION

Accordingly, Chemours Company FC LLC. is hereby assessed a civil penalty of:

\$ 30,000.00 For 10 of ten (10) violations of NDPES permit NC0089915, Part I, A. (1.) Effluent Limitations and Monitoring Requirements - Outfall 003 by the failure to capture and treat a minimum of 610 gpm on October 11, 2020 through October 21, 2020, excluding October 13, 2020.

\$ 3,000.00 For 1 of one (1) violation of NDPES permit NC0089915, Part I, A. (1.) Effluent Limitations and Monitoring Requirements – Outfall 003 for exceedance of the PFMOAA daily limit of 0.85µg/L on October 29, 2020.

\$ 3,000.00 For 1 of one (1) violation of NDPES permit NC0089915, Part II, Condition C. (2.) Operation and Maintenance by failing to operate and maintain the internal carbon vessel to prevent a permit limit exceedance on October 29, 2020.

\$ 1,250.00 For 5 of five (5) violations of NPDES NC0089915 permit condition Part II, Condition C. (2.) Operations and Maintenance for making calculation errors which resulted in reduced capture and treatment of stream flow on November 24, 2020 through November 29, 2020, excluding November 25, 2020.

\$ 37,250.00 TOTAL CIVIL PENALTY, authorized by G.S. 143-215.6A

\$ 1,187.16 Enforcement Cost

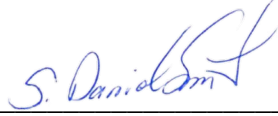
\$ 38,437.16 TOTAL AMOUNT DUE

As required by G.S. 143-215.6A(c), in determining the amount of penalty, I considered the factors set out in G.S. 143B-282.1(b), which are:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violations;

- (2) The duration and gravity of the violations;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violations were committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with programs over which the Environmental Management Commission has regulatory authority; and
- (8) The cost to the State of the enforcement procedures.

3/31/2021  
Date

  
S. Daniel Smith, Director  
Division of Water Resources