

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

DUPONT DE NEMOURS, INC.,

*Petitioner,*

V.

Case No. 23-1444

U.S. ENVIRONMENTAL  
PROTECTION AGENCY,

*Respondent.*

**STIPULATION OF DISMISSAL PURSUANT TO**  
**FED. R. APP. P. 42(b)**

On April 6, 2023, Respondent U.S. Environmental Protection Agency (“EPA”) issued a decision to Petitioner DuPont de Nemours, Inc. (“DuPont”) that it is releasing DuPont from EPA’s June 6, 2022, order entitled *Modification to Order Under Section 4(a)(1) of the Toxic Substances Control Act*, EPA Docket Identification Number EPA-HQ-OPPT-2021-0897, regarding the chemical substance 6:2 fluorotelomer sulfonamide betaine (6:2 FTSB), and EPA’s January 4, 2023, order entitled *Order under Section 4 of the Toxic Substances Control Act*, EPA Docket Identification Number EPA-HQ-OPPT-2021-0910, for the chemical substance trifluoro(trifluoromethyl)oxirane, or hexafluoropropylene oxide (HFPO)

that is the subject of the petition for review. A copy of the notice that EPA provided to Petitioner is attached hereto as Exhibit A.

Pursuant to Fed. R. App. P. 42(b), the undersigned counsel for the parties stipulate that the above-captioned appeal is withdrawn with prejudice and without costs or attorney fees against any party.

Dated: May 19, 2023

/s/ Laura J. Brown

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

OFFICE OF CHEMICAL SAFETY AND  
POLLUTION PREVENTION

**MEMORANDUM**

**SUBJECT:** Release of DuPont de Nemours, Inc. from TSCA section 4(a)(1) Orders on 6:2 Fluorotelomer Sulfonamide Betaine and Hexafluoropropylene Oxide

**FROM:** Virginia Lee, Team Lead acting for  
David Turk, Chief  
Data Collections Branch (DCB)

**VIRGINIA LEE** Digitally signed by  
VIRGINIA LEE  
Date: 2023.05.11  
15:06:58 -04'00'

**TO:** David Widawsky, Director  
Data Gathering and Analysis Division (DGAD)

The U.S. Environmental Protection Agency (EPA) is confirming that on April 6, 2023, EPA released DuPont de Nemours, Inc. (DuPont) from the TSCA Section 4(a)(1) Test Order on 6:2 Fluorotelomer sulfonamide betaine (6:2 FTSB) (6:2 FTSB Test Order) (Chemical Abstracts Service Registry Number<sup>®</sup> (CAS RN<sup>®</sup>) 34455-29-3), entitled *Modification to Order Under Section 4(a)(1) of the Toxic Substances Control Act*, EPA Docket Identification Number EPA-HQ-OPPT-2021-0897, signed on June 6, 2022, modified on June 16, 2022, and on October 20, 2022, with an effective date of June 21, 2022.

In addition to DuPont, EPA identified The Chemours Company (Chemours), E.I. du Pont de Nemours and Company (EID) (a subsidiary of Corteva, Inc.) (effective January 1, 2023, EID changed its name to EIDP, Inc. (EIDP)), Johnson Controls, Inc. and National Foam, Inc. as recipients of the 6:2 FTSB Test Order. On January 23, 2023, EPA extinguished one of the testing requirements of the 6:2 FTSB Test Order, specifically the testing need for the Hydrolysis Test (OECD 111), in response to the submission of existing information under Option 2 of the 6:2 FTSB Test Order.

A recipient of the 6:2 FTSB Test Order may claim that it is not subject to the test order, referred to in the test order as "Option 4." If EPA approves the claim, EPA will notify the test order recipient that it is not subject to the test order through EPA's Central Data Exchange (CDX) correspondence. DuPont exercised "Option 4: Claim that You Are Not Subject to this Order" in response to the 6:2 FTSB Test Order. DuPont asserted that it is not subject to the 6:2 FTSB Test Order because it does not manufacture or process 6:2 FTSB, does not intend to manufacture or process 6:2 FTSB, and has not manufactured or processed 6:2 FTSB during the ten years preceding the issuance date of the test order. DuPont asserts that it is not responsible for any historic or ongoing activities involving the chemical substance 6:2 FTSB and is not a "corporate successor in interest" that may be responsible for satisfying the obligations of the 6:2 FTSB Test Order.

In written correspondence to DuPont on April 6, 2023, and May 3, 2023, EPA notified DuPont in accordance with procedures specified under the 6:2 FTSB Test Order that it approved DuPont's claim that it is not subject to the order. Thereby, DuPont is released from the 6:2 FTSB Test Order and is no longer subject to the subsequent deadlines or other requirements of the 6:2 FTSB Test Order. EPA has not made a determination regarding the corporate succession of DuPont de Nemours vis-à-vis E. I. du Pont de Nemours and Company. This decision does not reflect a definitive Agency position as to the other responsibilities that DuPont de Nemours may have with

respect to this or other PFAS.

EPA is confirming that on April 6, 2023, EPA released DuPont from the TSCA Section 4(a)(1) Test Order on trifluoro(trifluoromethyl)oxirane, or hexafluoropropylene oxide (HFPO) (“HFPO Test Order”) (CAS RN 428-59-1), entitled *Order under Section 4 of the Toxic Substances Control Act (TSCA)*, EPA Docket Identification Number EPA-HQ-OPPT-2021-0910, dated January 4, 2023, with an effective date of January 9, 2023. In addition to DuPont, EPA identified 3M Company, The Chemours Company FC LLC (a subsidiary of Chemours), EID (now EIDP) (a subsidiary of Corteva) as recipients of the HFPO Test Order.

In response to the HFPO Test Order, a recipient may submit an “Identification Response” with a claim that the recipient is not subject to the order. If EPA approves the claim, EPA will notify the test order recipient that it is not subject to the test order through CDX correspondence. DuPont submitted an Identification Response on February 7, 2023, stating it is not subject to the order because it does not manufacture or process HFPO, does not intend to manufacture or process HFPO, and has not manufactured or processed HFPO during the ten years preceding the issuance date of the test order. DuPont asserts that it is not responsible for any historic or ongoing activities relating to the chemical substance HFPO and is not a “corporate successor in interest” that may be responsible for satisfying the obligations of the HFPO Test Order.

In written correspondence to DuPont on April 6, 2023, and May 3, 2023, EPA notified DuPont in accordance with procedures specified under the HFPO Test Order that it approved DuPont’s claim that it is not subject to the order. Thereby, DuPont is released from the HFPO Test Order and is no longer subject to the subsequent deadlines or other requirements of the HFPO Test Order. EPA has not made a determination regarding the corporate succession of DuPont de Nemours vis-à-vis E. I. du Pont de Nemours and Company. This decision does not reflect a definitive Agency position as to the other responsibilities that DuPont de Nemours may have with respect to this or other PFAS.