

Proposed PFAS Class Action Settlements with Public Water Systems

What are PFAS?

Per- and polyfluoroalkyl substances (PFAS) are a group of thousands of manmade chemicals that have been used extensively since the 1950s in consumer products, such as Teflon pans, fast food packaging, fire-fighting foams, and other materials designed to be waterproof, stain-resistant, or non-stick. Although certain PFAS chemicals are no longer manufactured in the United States, these chemicals are still produced internationally and imported into the country through consumer goods.

What are the proposed settlement details?

Several PFAS manufacturers responsible for contaminating drinking water resources, including 3M, Chemours, Corteva, and DuPont, have reached proposed settlement agreements with Public Water Systems (PWS), totaling over \$13 billion. Members of the proposed settlement class fall within one of two phases, depending on whether or not they have detected PFAS in their water sources. If eligible, PWS may receive compensation for this PFAS contamination, but must carefully navigate whether to participate in or opt out of the proposed settlements. Both 3M and DuPont have the option to terminate the proposed settlements if a certain percentage of settlement class members decides to opt out. Federal and state PFAS compliance standards are coming, and these settlements may provide funds to help pay future compliance costs. However, the proposed settlements also contain very broad release provisions.

Settlement 1: DuPont

In August, a federal judge preliminarily approved a \$1.185 billion class action settlement agreement between PWS and DuPont to address drinking water contaminated by PFAS. Eligible entities have until December 4, 2023 to opt out of the proposed

settlement. In December, the settlement may be finalized in a "fairness hearing," where the judge will consider any objections or concerns before deciding whether to give final approval.

The preliminary approval was given after amending the settlement to address concerns from plaintiffs and other interested parties. These changes included extending the opt-out period for claimants from 60 days to 90 days, adding language that preserves state-plaintiffs' state-law claims, and setting up a website that allows class members to calculate a good faith estimate of the funds they may receive if they participate.

Settlement 2: 3M

Shortly after the DuPont settlement was preliminarily approved, 3M received preliminary approval for a settlement in the range of \$10.5 billion to \$12.5 billion to resolve claims by PWS against 3M for polluting drinking water with PFAS. The settlement amount would be paid over a 12-year period, ending in 2036. Eligible PWS have until December 11, 2023 to opt out of the proposed settlement. In February 2024, the settlement may be finalized in a fairness hearing.

The preliminary approval came after a group of 22 states, including California, and territories dropped their objections to the proposed settlement. The California Attorney General opposed the original settlement alleging that PWS would be automatically bound by the terms of an agreement that is worth less than the costs PWS will incur to treat PFAS. As a result of this pushback, the proposed settlement was amended.

The changes allow individual PWS to obtain estimates on their expected payout before agreeing to the settlement, give providers more time to decide whether to opt out of the deal, and clarify that states can still pursue separate lawsuits over PFAS contamination.



Release of Liability

If a PWS decides to participate in a settlement, the PWS will release claims against 3M and DuPont. Generally speaking, the release will prevent the PWS from bringing any lawsuit against 3M or DuPont for claims related to PFAS.

Agencies that do not opt out will be bound by the proposed settlements, including the release provisions, regardless of whether or not that PWS files a claim or receives any distribution from the settlements.

What deadlines to know?

Deadline Descriptions	DuPont Deadline Dates	3M Deadline Dates
Deadline to submit objections	November 4, 2023	November 11, 2023
Deadline to opt out	December 4, 2023	December 11, 2023
Court’s final approval	December 14, 2023	February 2, 2024
Deadline to file claims form	Phase One: 60 days after the effective date ¹ Phase Two: June 30, 2026	Phase One: 60 days after the effective date ² Phase Two: July 31, 2026

For more information or to submit a claim, visit the official settlement [website](#).

What are the next steps for my agency?

Review the settlement materials with your agency and decide whether your agency is a member of the settlement class and, if so, whether the proposed settlements are beneficial to participate in. If yes, then you must submit any objections and/or forms by the dates listed above.

If your agency is a member of the settlement class, but you do not want to participate, then you must opt out of the DuPont and/or 3M proposed settlements by the deadlines or else your agency will be bound by the proposed settlements, including the release provisions.

1 “Effective Date” is defined in the DuPont settlement agreement as the date of Final Judgement.
2 “Effective Date” is defined in the 3M settlement agreement as five business days after the Final Judgement.

QUESTIONS

For questions regarding the proposed PFAS settlements, please contact ACWA Director of State Relations [Adam Quinonez](#).