

## First Of Its Kind With More To Follow: NJDEP Settlement Proposal Addresses PFAS Contamination

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On June 28, 2023, the New Jersey Department of Environmental Protection (“NJDEP”) reached a proposed settlement with Solvay Specialty Polymers USA, LLC (“Solvay”) over Solvay’s discharging of per- and polyfluoroalkyl substances (“PFAS”) and other contaminants into public drinking water during Solvay’s thirty-year operation of a 243-acre chemical manufacturing plant in West Deptford, New Jersey. Solvay, which was subject to a Statewide Directive regarding PFAS contamination of regional potable groundwater sources by NJDEP in March 2019, could not reach a resolution with the Department on testing and remediation of the Site – resulting in NJDEP filing a lawsuit against the manufacturer in November 2020.

Three years later, the parties are prepared to enter a settlement dubbed a “first of its kind” by NJDEP. The proposal rolls in on the back of new State and National standards on PFAS regulation. On October 17, 2022, the NJDEP published new interim soil remediation standards for the “Forever Chemicals” (viewable [here](#)) while the Environmental Protection Agency (“EPA”) issued its own rule proposal in March 2023 establishing a near zero allowance for PFAS contaminant levels in drinking water (viewable [here](#)).

The settlement imposes not only a requirement for Solvay to institute environmental cleanup actions but for the West Deptford polymer manufacturer to take on \$392.7 million in financial commitments – a hefty monetary penalty that may encourage other companies facing directives from NJDEP to weigh the costs of settlement versus litigating. Among these financial commitments Solvay will be required to:

- Pay for and implement comprehensive remedial activities at the West Deptford manufacturing site;
- Provide financial support for certain public water system upgrades necessary to remove PFAS from drinking water;
- Further investigate and address certain PFAS impacts to public water systems and private potable drinking water wells in the vicinity of the Site; and
- Compensate the public for natural resources injured by the discharge of hazardous

substances.

The full Notice of Proposed Settlement can be viewed [here](#) and will be open up for public comment on August 7, 2023.

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