

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

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IN THE MATTER OF:)
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E. I. du Pont de Nemours)
and Company)
)
Wilmington, DE)
)
)
Respondent)
)
Washington Works Facility)
Route 892 South DuPont Road)
Washington, Wood County, WV)
)

Docket No. TSCA-HQ-2004-0016
Docket No. RCRA-HQ-2004-0016
Docket No. TSCA-HQ-2005-5001

COMPLAINANT'S INITIAL PREHEARING EXCHANGE
FOR HEARING ON COUNT 1

By Order of Judge Barbara A. Gunning, dated September 16, 2004, as amended by the Order Denying Complainant's Motion for Stay, Granting Limited Extension of Time for Complainant to File Reply in Support of Complainant's Motion for Accelerated Decision on Liability for Count III, and Amending Prehearing Exchange Schedule, dated November 23, 2004, Complainant, the U.S. Environmental Protection Agency, respectfully submits the following prehearing exchange:

I. **PLACE FOR HEARING AND ESTIMATED TIME FOR DIRECT CASE**

Washington, D.C. is Complainant's preferred place for the hearing. Complainant estimates that presenting the direct case for Count I will take 3 to 4 days. However, because additional information relating to this count may be located in documents DuPont continues to

provide to EPA's Toxics Program and because this information may give rise to additional evidence of DuPont's failure to provide important data concerning the substantial risk of the chemical at issue in this case, Complainant may need more than four (4) days to present its direct case on Count I, and will advise the Court accordingly.

II. EXPECTED WITNESSES AND TESTIMONY

1. Tony Ellis, Case Development Officer, Toxics and Pesticides Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance. Mr. Ellis is expected to testify as to the circumstances giving rise to this action. Mr. Ellis is also expected to testify as to the calculation of EPA's proposed penalty.

2. Oscar Hernandez, Ph.D., Director, Risk Assessment Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances. Dr. Hernandez manages four separate branches involved with TSCA chemical review. His staff includes the experts at the Agency who determine whether particular information concerning a chemical would reasonably support the conclusion that the chemical presents a substantial risk of injury to health or the environment. Dr. Hernandez is expected to testify as an expert concerning the importance of obtaining substantial risk information. Dr. Hernandez is also expected to testify as to his review of the information at issue in Count I and the factual basis for EPA's determination that this information is subject to TSCA § 8(e).

3. Jennifer G. Seed, Ph.D., Chief, Existing Chemicals Assessment Branch, Risk Assessment Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances. Dr. Seed led the EPA team that wrote the Draft Risk Assessment for PFOA. She is currently handling EPA's continuing risk assessment for APFO/PFOA and polyfluorinated chemicals.

Dr. Seed is expected to testify as to the general process for Risk Assessment review, and specifically to her review of PFOA. Dr. Seed is expected to testify as an expert toxicologist concerning the risks associated with PFOA that reasonably support the conclusion this chemical presents a substantial risk of injury to health or the environment. Dr. Seed is also expected to testify as to the significance of the persistence of PFOA in humans to risk assessment and the significance of obtaining human transplacental movement data instead of extrapolating data from other animals or other chemicals.

4. Charles M. Auer, Director, Office of Pollution Prevention and Toxics. Mr. Auer is expected to testify as to his efforts with DuPont and the industry in general to obtain health assessment data concerning PFOA and related chemicals. Mr. Auer is expected to testify as an expert on the TSCA § 8(e) program. Mr. Auer is expected to testify as to his review of the information at issue in Count I and the factual basis for EPA's determination that DuPont is subject to TSCA § 8(e) and the information is subject to TSCA § 8(e).

5. Terry R. O'Bryan, Environmental Scientist, High Production Volume Chemicals Branch, Risk Assessment Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances. Mr. O'Bryan has worked as staff support for the TSCA § 8(e) program for more than 15 years. Mr. O'Bryan is expected to testify as to the timing of when the Administrator had been informed about the transplacental movement data.

6. Myra Karstadt, Ph.D., Toxicologist, Science Support Branch, Risk Assessment Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances. Dr. Karstadt is expected to testify as to the timing of when the Administrator had been informed about the transplacental movement data.

7. David G. Gray, Ph.D., Toxicologist, Science International Inc., is an expert toxicologist expected to testify generally as to the toxicology of PFOA and the significance of the information at issue in Count I that DuPont failed to provide to EPA. Dr. Gray is expected to testify as to the risks associated with PFOA.

8. Gregory L. Fritz, Chemist, Industrial Chemistry Branch, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics, Office of Prevention, Pesticides, and Toxic Substances. Mr. Fritz is expected to testify to the chemistry of APFO and how it relates to PFOA. Mr. Fritz is also expected to testify as to EPA's determination that DuPont is subject to TSCA § 8(e).

III. DOCUMENTS AND EXHIBITS COMPLAINANT INTENDS TO INTRODUCE INTO EVIDENCE AT HEARING ON COUNT I

These documents and exhibits are listed and described below:

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
1	Hardcopy Letter with attachment, "Exhibit # 13" only, from Robert A. Bilott, Esq. Taft, Stettinius & Hollister, L.L.P. to Christine T. Whitman, Administrator, EPA, <i>et al.</i> , dated March 6, 2001. RE: Request for Immediate Governmental Action. Compact Disk (CD) labeled "AR-226-1246" (951-page submission)
2	Cover Letter only, clean copy, from Robert A. Bilott, Esq. Taft, Stettinius & Hollister, L.L.P. to Christine T. Whitman, Administrator, EPA, <i>et al.</i> , dated March 6, 2001. RE: Request for Immediate Governmental Action
3	Letter from Robert A. Bilott, Esq., Taft, Stettinius & Hollister, LLP, to Richard H. Hefter, Chief, EPA, dated July 3, 2003. TSCA Section 8(e) Reporting for PFOA. (15 pp) Attachments (33 documents identified A through GG) as follows:

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
(3-continued)	A: AR226-1373, 3M Letter dated March 20, 1981. Section 8(e) Toxic Substances Control Act (TSCA) Perfluoroalkane Carboxylic Acids and Corresponding Ammonium Carboxylates
	B: Series of Attachments, I-XV, to create a Timeline for DuPont's C-8 Related Activities
	C: Document from Bruce W. Karrh dated March 25, 1981, regarding Ammonium Perfluorooctanoate (FC-143) C-8 Compounds
	D: Letter from Griffith, 3M, dated March 27, 1981. Notifying McKusick of Haskell Lab of 8(e) Notification
	E: Memo from J.W. Raines, DuPont, dated April 1, 1981, regarding Ammonium Perfluorooctanoate (C-8) Rangefinder Study
	F: Document from R..J. Burger dated March 31, 1981, regarding Supervision Through Division Superintendents
	G: Memo from Karrh dated April 2, 1981. RE: Epidemiological Study - C-8 (FC-143)
	H: Document from Bruce Karrh dated April 6, 1981, regarding Epidemiology Study C-8 (FC-143)
	I: Document by William E. Fayerweather, Employee Relations Department, Medical Division, Epidemiology Section, dated April 13, 1981. Study of Pregnancy Outcome in Washington Works Employees: Research Proposal (19 pp.)
	J: AR226-1382, Document from L.F. Percival dated April 14, 1981, regarding Outline of C-8 Blood Sampling Program (3 pp.)
	K: AR226-1383. Document regarding Washington Works Study Design for Pregnant Women (C-8)
	L: Word Processing Work Form
	M: Weekly Notes from Burford W. Culpepper, M.D., to H.G. Smyth dated April 28, 1981, regarding C-8 (FC-143) (1 p.)

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
(3-continued)	N: Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 14, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
	O: Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 19, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
	P: Memo from R.D. Ingalls, DuPont, to J.H. Todd, Washington Works, dated May 26, 1981, regarding C-8 Program Status (2 pp.)
	Q: Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
	R: Cover document from Paul Thistleton, Washington Works, to John Doughty, dated September 16, 1981. Attachment Letter to S. Takada, Mitsui Fluorochemicals Co., Ltd., Japan, dated September 15, 1981. Proposed Employee Blood Sampling Program (5 pp.)
	S: Letter from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated October 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
	T: Memo From Burger dated December 15, 1981, Re: C-8 (FC-143) Status Report
	U: Memo from Doughty dated December 18, 1981, Re: Questions on C-8 Status Report
	V: Memo from McKusick dated February 4, 1982, Re: Meeting with 3M on C-8
	W: Document dated March 1, 1982, regarding C-8 (FC-143) Employee Communication
	X: Memo from McKusick dated March 15, 1982. Re: Report of FC-143 Teratogenic Studies to EPA
Y: Letter from Kennedy dated March 16, 1982, to Seifert, EPA, Re: Transplacental Movement in the Rat	

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
(3 continued)	Z: Correspondence from Karrh to Raines dated November 23, 1982, Re: Scrubbing of Fine Powder Dryer Exhaust
	AA: Memo from Doughty to Schmid dated August 29, 1984, Re: Summary of C-8 in Water Sampling Program
	BB: Memo from Playtis to Zipfel dated May 12, 1987, Re: C-8 In Water
	CC: Letter from Smith to Kennedy dated June 12, 1987, Re: Ammonium Perfluorooctanoate (C-8) Requesting Acceptable Level in Blood and Community Drinking Water
	DD: Memo from G.L. Kennedy, Jr., to H.A. Smith, Haskell Laboratory, dated June 25, 1987 regarding Ammonium Perfluorooctanoate (2 pp.)
	EE: Memo from Anderson dated April 1, 1991, Re: Request for CEG for Ammonium Perfluorooctanoate in Drinking Water
	FF: From Berg to Polymers Occupational Health Site Contacts dated June 11, 1991, Re: New AELs
	GG: Memo from Vandell to Stewart dated September 19, 1991, Re: Minutes of The On-Site Washington Works Meeting
4	Document regarding Toxicity of Teflon Dispersing Agents (Arenson)
5	Letter from W.E. Hilton dated February 18, 1970, regarding Request for Toxicological Information "Teflon" Division Chemicals
6	Letter from W.E. Hilton dated May 8, 1970, regarding Toxicological Information on C8 APFC
7	Document from Y.L. Power to W.A. Bower dated September 20, 1978, regarding the Review of Medical Records of Workers with Long-Term C8 Exposure
8	Document dated May 22, 1979, regarding the Status Review of Fluorochemicals in Blood
9	Meeting Summary dated May 2, 1979, regarding the Fluorochemicals in Blood
10	Document dated August 30, 1979, regarding Fluorine Blood Levels

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Complainant's Exhibit No.	DOCUMENT
11	Memo from R.M. Shepherd to J.F. Doughty, DuPont, dated October 1, 1979, regarding Organic Fluorides In Blood Analyses
12	Memo from R.M. Shepherd to J.F. Doughty, DuPont, dated October 10, 1979, regarding Organic Fluorides In Blood Analyses
13	Memo from R.M. Shepherd, DuPont, dated October 16, 1979, regarding C-8 (FC-1430- Ammonium Perfluorooctanoate)
14	Document dated January 17, 1980, regarding Blood Analyses
15	Document from F & F Department, dated February 1980 regarding FC-143 Data
16	Document from DuPont dated January 1980, entitled, <u>Your Memo, June 4, Requesting Comments On The Washington Works Communication draft "Fluoro-Surfactants In Blood"</u>
17	Document regarding C-8 Communications Meeting Outline, Talk & Charts
18	Memo from T.F. Jordan & Paul Thistleton, Teflon Division, dated September 30, 1980, regarding C-8 (FC-143) Control
19	Document dated March 3, 1980, regarding Summary Organic Fluorides In Blood samples
20	Memo from Paul Thistleton, DuPont, dated February 17, 1981, regarding Correction of Organic Fluorine in Blood Results for Recovery
21	Memo from Paul Thistleton, DuPont, dated March 6, 1981, regarding Correction of Organic Fluorine in Blood Results for Recovery
22	Memo from C.F. Reinhardt, M.D., <i>et al.</i> , to H.E. Serenbetz, DuPont Haskell Laboratory, dated May 6, 1981, regarding FC-143 (Ammonium Perfluorooctanoate; C-8; CAS-3825-26-1) (3 pp.)
23	Memo from C.F. Reinhardt, M.D., Haskell, <i>et al.</i> , to H.E. Serenbetz, DuPont, dated April 10, 1981, regarding FC-143 (Ammonium perfluorooctanoate; C-8; CAS-3825-26-1) (2 pp.)
24	Document dated "Revised 5/14/81," regarding C-8 Blood Sampling Results (4 pp.)

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Complainant's Exhibit No.	DOCUMENT
25	Letter from A.C. Huston, Washington Works, to David W. Robinson, Chief, WVA Division of Water Resources, dated June 9, 1981, regarding Toxicity information (1 p.)
26	Letter with attachments from Robert A. Bilott, Esq., Taft, Stettinius & Hollister, L.L.P., to Richard H. Hefter, Chief, EPA, dated January 26, 2004. TSCA Section 8(e) Reporting for PFOA (8 pp.)
27	Cover Letter and attachments from Gerald L. Kennedy, Jr., DuPont Haskell Laboratory, to Charles M. Auer, Director, EPA, dated June 23, 2000. Ammonium Perfluorooctanoate (13 pp.)
28	Cover Letter and attachments from Gerald L. Kennedy, Jr., DuPont Haskell Laboratory, to Charles M. Auer, Director, EPA, dated January 25, 2001. Voluntary Use and Exposure Information Profile, Ammonium Perfluorooctanoate (APFO) (13 pp.)
29	Letter from Richard H. Hefter, Chief, EPA, to Gerald L. Kennedy, DuPont Haskell Laboratory, dated February 14, 2001. FYI-0101-01378; request for explanation (1 p.)
30	Letter from Gerald L. Kennedy, Jr., DuPont Haskell Laboratory, to EPA Document Control Office, dated March 8, 2001. Reply to FYI-0101-01378 (2 pp.)
31	Letter from Richard H. Hefter, Chief, EPA, to Gerald L. Kennedy, Jr., DuPont Haskell Laboratory, dated March 20, 2001. FYI-0101-01378 and FYI-0301-01378 (1 p.)
32	Letter from Gerald L. Kennedy, Jr., DuPont Haskell Laboratory, to EPA Document Control Office, dated May 24, 2001. FYI-0101-01378 and FYI-0301-01378 (4 pp.)
33	Document from R.J. Burger, DuPont, to Teflon Production, Technical, Mechanical Supervision, dated April 10, 1981, regarding Fluorosurfactants in Blood (1 p.)
34	Letter from J.W. Raines, DuPont, to J.T. Smith, dated April 13, 1981. Ammonium Perfluorooctanoate (FC-143) Ongoing Program (6 pp.)

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35	Document from L.F. Percival dated April 14, 1981, regarding Outline of C-8 Blood Sampling Program (3 pp.)
36	Memo from C.F. Reinhardt, <i>et al.</i> , to H.E. Serenbetz, Haskell Laboratory, dated May 6, 1981, regarding FC-143 (Ammonium perfluorooctanoate; C-8; CAS-3825-26-1) (3 pp.)
37	Document dated "Revised 5/14/81," regarding C-8 Level - Current Washington Works Female Employees and C-8 Level Locations Other than Washington Works. (2 pp.)
38	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 14, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
39	Memo from S.S. Stafford, DuPont, to Dr. W.E. Neeld, Chambers Works, dated May 14, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (1 p.)
40	Memo from S.S. Stafford, DuPont, to Dr. B. Ramirez, Haskell Laboratory, dated May 15, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (1 p.)
41	Memo from S.S. Stafford, DuPont, to Dr. O. Inslee, Textile Fibers, Spruance, Richmond, dated May 19, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
42	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 19, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
43	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 19, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
44	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Washington Works, dated May 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)

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45	Memo from S.S. Stafford, DuPont, to Dr. C. Walker, Chestnut Run, dated May 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
46	Memo from S.S. Stafford, DuPont, to Dr. J.M. Hedges, Circleville, Ohio, dated May 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
47	Memo from S.S. Stafford, DuPont, to Dr. W. J. Reinhard, F&F, Fairfield, CT, dated May 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
48	Memo from S.S. Stafford, DuPont to Dr. K.C. Hobbs, F&F, Ajax, Ontario, dated May 21, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
49	Document from J.E. Doughty dated June 5, 1981, regarding the Program To Monitor Level of Organic Fluorine (Measured as C-8) in Blood; and revision (3 pp.)
50	Memo from S.S. Stafford, DuPont to Dr. R. Laureyssens, F&F, Mechelen, Belgium, dated July 13, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
51	Memo from S.S. Stafford, DuPont to Dr. R.J. McCaffrey, Photo Products, Rochester, NY, dated July 13, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
52	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
53	Memo from S.S. Stafford, DuPont, to Dr. B.W. Karrh, Medical Director, DuPont, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
54	Memo from S.S. Stafford, DuPont to Dr. O. Inslee, Spruance Textile Fibers, Richmond, VA, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)

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55	Memo from S.S. Stafford, DuPont, to Dr. J.E. Stout, Photo Products, Brevard, NC, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
56	Memo from S.S. Stafford, DuPont, to Dr. A. Binnerts, PPD, Dordrecht, dated July 16, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
57	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated July 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
58	Letter from S.S. Stafford, DuPont to Dr. O. Inslee, Spruance Textile Fibers, Richmond, VA, dated July 24, 1981. Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
59	Document from R.J. Burger to Fluoropolymers Production, Technical and Mechanical Supervision, dated July 13, 1981, regarding C-8 Program (8 pp.)
60	Document from J.F. Doughty dated August 7, 1981 regarding the C-8 Program (2 pp.)
61	Letter from S.S. Stafford, DuPont, to Dr. R.J. Clayton, Medical, Wilmington, dated August 19, 1981. Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
62	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated August 21, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
63	Document dated August 27, 1981, regarding Analytical Results: FC-143* in Blood Polymer Products - Chambers Works (1 p.)
64	Memo from K.L. Seligman to R.N. Knowles, Chambers Works, dated September 1, 1981, entitled, <u>Communication to Employees: Reporting FC-143 in Blood Results</u> (6 pp.)
65	Memo from S.S. Stafford, DuPont to Dr. Y.L. Power, Parkersburg, dated September 8, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate. (3 pp.)

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66	Handwritten notes regarding C-8 In Blood (5 pp.)
67	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated September 29, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
68	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated October 6, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
69	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated October 20, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
70	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated October 27, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
71	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated November 3, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
72	Letter from Joseph G. Loschiavo to J.W. Raines, Polymer Products Department, DuPont, dated December 1, 1981. C-8 Blood Levels in Females Transferred out of the Teflon® Divisions, Washington Works (16 pp.)
73	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated December 2, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
74	Memo from S.S. Stafford, DuPont, to Dr. J.M.. Hedges, PPD, Circleville, dated December 2, 1981, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
75	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated January 6, 1982, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)

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76	Memo from S.S. Stafford, DuPont, to Dr. Y.L. Power, Parkersburg, dated January 18, 1982, regarding Analysis of Blood Samples for Perfluorooctanoate (3 pp.)
77	Memo from J.G. Loschiavo, Washington Works, to J.W. Raines, Polymer Products Department, DuPont, dated February 19, 1982, regarding Trends in Blood C-8 Levels for Various Teflon® Operating Groups, Washington Works (4 pp.)
78	Memo from Bruce W. Karrh, MD, Director, to W.C. Haaf, F&F, DuPont, dated April 5, 1982, regarding Blood Tests - Employees Potentially Exposed to FC-143 (1 p.)
79	Memo from B.C. McKusick to G.L. Kennedy, Haskell Laboratory, dated May 12, 1982, regarding Analysis of Blood Serum for FC-143 (3 pp.)
80	Weekly Notes from L.E. Wyche to H.G. Smyth, dated May 12, 1982, regarding Fluoride in Blood. (1 p.)
81	Document from R.J. Burger to Fluoropolymers Production, Technical and Mechanical Supervision, dated July 6, 1982, regarding FPD Blood Sampling Program - C-8 (1p.)
82	Memo from J.G. Loschiavo to R.J. Burger, DuPont, dated July 14, 1982, regarding Trends in Blood C-8 Levels for Various Teflon® Employee Groups (9 pp.)
83	Handwritten memo from J.G. Loschiavo to A.R. Behnke, <i>et al.</i> , dated July 14, 1982, regarding C-8 Air and Blood Sampling (3 pp.)
84	Memo from J.G. Loschiavo to R.J. Zipfel, dated July 29, 1982, regarding Retention of Ammonium Perfluorooctanoate (C-8) in of Teflon® Employees (3 pp.)
85	Memo from R.J. Zipfel to J.G. Loschiavo, dated August 6, 1982, regarding Retention of C-8 in Employees' Blood (1 p.)
86	Memo from R.J. Zipfel to R.J. Burger, dated August 6, 1982, regarding C-8 Blood Sampling Program (1 p.)

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
87	Letter from Timothy P. Pastoor, Haskell Laboratory, to J.G. Loschiavo, DuPont, dated August 25, 1982. Ammonium Perfluorooctanoate (C-8) in Human Blood (3 pp.)
88	Memo and attachments from J.G. Loschiavo to R.J. Zipfel, Washington Works Teflon® Division, dated September 28, 1982. Ammonium Perfluorooctanoate (C-8) in Blood of Teflon® Employees (8 pp.)
89	Memo from R.J. Zipfel to W.T. Darnell, <i>et al.</i> , Washington Works Teflon® Polymer Division, dated October 7, 1982, regarding C-8 Elimination Rates (1 p.)
90	Memo from S.R. Laas to J.D. De Laurentis, DuPont, dated November 1, 1982, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
91	Memo from Bruce W. Karrh to W.C. Haaf, DuPont, dated March 4, 1983, regarding FC-143 Blood Analysis (Letter dated April 8, 1982) (1 p.)
92	Memo from J.G. Loschiavo to T.M. Kemp dated August 11, 1983, regarding Update on the C-8 Blood Sampling Program (5 pp.)
93	Memo from Sharron Laas to O.P. Tedesco, DuPont, dated September 21, 1983, regarding Analysis of Blood Samples for Perfluorooctanoate (2 pp.)
94	Handwritten document by J.G. Loschiavo dated October 17, 1983, entitled, <u>New Hires - Teflon®</u> (8 pp.)
95	Document entitled, <u>Teflon® Fine Powder/Dispersion Operators, C-8 Blood Sample Results</u> (4 pp.)
96	Memo from J.G. Loschiavo to J.W. Raines, DuPont, dated October 27, 1983, regarding Washington Works, Blood C-8 Levels for Non-Fluoropolymers Division Employees (2 pp.)
97	Memo and attachments from J.A. Schmid to T.M. Kemp, <i>et al.</i> , dated May 23, 1984, regarding C-8 Meeting Summary, 5/22/84 - Wilmington (12 pp.)
98	Document entitled, <u>C-8 in Off Plant Water Systems</u> , dated June 1984 (6 pp.)
99	Memo from J.G. Loschiavo to T.M. Kemp, dated June 14, 1984, regarding Update on the C-8 Blood Sampling Program (5 pp.)

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
100	Handwritten document by J.G.L [J.G. Loschiavo] dated June 14, 1984, entitled, <u>Table 1, Teflon® Fine Powder/Dispersion Operators, C-8 Blood Sample Results</u> (11 pp.)
101	Memo from J.G. Loschiavo to H.E. Bumgarner, <i>et al.</i> , dated September 12, 1984, regarding C-8 Blood Sampling Program (3 pp.)
102	E-mail from Anthony J. Playtis to John R. Bowman, <i>et al.</i> , dated January 22, 2002. Subject: Blood Data (1 p.)
103	One page fax document, no date, entitled, <u>C-8 Blood Sampling Results</u> (illegible) (1 p.)
104	E-Mail messages from Bernard Reilly dated March 10, 2001 through February 6, 2002
105	Document from Dupont dated January 27, 2003, entitled <u>Cancer Incidence Report 1959-2001, All-Cause Mortality Report 1957-2000, Washington Works, Parkersburg, West Virginia</u>
106	Letter and attachments from C.O. Holliday, Jr. to Stockholders dated April 28, 2004, regarding Annual Meeting invitation (3 pp.)
107	Letter from Peter D. Robertson, Esq., dated December 7, 2004. RE: Further DuPont Voluntary Response to EPA's November 4, 2004 Request Submission to AR-226 and TSCA § 8(e) Office. <u>Toxicology, Pharmacokinetics, Fate and Transport, Product Contamination. Non-CBI 8(e) Index</u>
108	Letter from Robert A. Bilott, Taft, Stettinius & Hollister, LLP, dated February 7, 2005. Re: PFOA Human Health Effects Study: Cancer Data
109	Letter from Robert A. Bilott, Taft, Stettinius & Hollister, LLP., to Ilana S. Saltzbar, Esq., EPA, dated July 29, 2004. <i>In the Matter of:</i> E.I. duPont de Nemours and Company, Wilmington, DE, Respondent. TSCA Subpoena No. HQ-TPED-01. RE: Information and Documents Requested (18 pp.)
110	Letter and attachment from Mark H. Christman, Esq., DuPont, to Michael F. Wood, Director, EPA, dated October 26, 1992. 8ECAP-0025; Phase 1 Final Report (8 pp.)

DOCUMENTS RELATING TO DUPONT'S UNDERSTANDING OF SUBSTANTIAL RISKS WITH PFOA	
Complainant's Exhibit No.	DOCUMENT
111	Cover Letter from Robert A. Bilott, Esq., Taft, Stettinius & Hollister, LLP, to Mark Garvey, Esq. EPA, dated November 18, 2004. Re: TSCA Subpoena No. HQ-TPED-01, Evers Video (see Complainant's Exhibit No. 150 prepared in DVD format)

RESPONDENT DEPOSITIONS	
Complainant's Exhibit No.	DOCUMENT
112	Transcript of videotaped deposition of Bruce W. KARRH, M.D., dated April 14, 2004. In the Matter of: Jack W. Leach, <i>et al.</i> v. E.I. Du Pont De Nemours & Company (100pp.)
113	Transcript of videotaped deposition pf Bruce W. KARRH, M.D., dated April 15, 2004. In the Matter of: Jack W. Leach, <i>et al.</i> v. E.I. Du Pont De Nemours & Company (80 pp.)
114	Deposition of Gerald KENNEDY, Volume I and Index (339 pp.)
115	Exhibits 1-24 to the Deposition of Gerald KENNEDY dated July 31, 2002. Volume I, Attachments from
116 separate box	Deposition and Exhibits of Gerald KENNEDY dated August 1, 2002. Volume II, Attached Exhibits 25 - 84
117	Transcript of videotaped deposition of Richard J. ANGIULLO dated November 22, 2002 (399 pp.)
118	Transcript of videotaped deposition of Glenn R. EVERS dated April 30, 2004 (267 pp.)
119	Deposition of Paul BOSSERT dated January 16, 2001 (94 pp.)
120	Deposition of Anthony PLAYTIS dated January 31, 2001 (94 pp.)
121	Deposition of Daniel A. WEBER dated January 8, 2001 (13 pp.)
122	Deposition of Andrew GALLAGHER dated May 17, 2004, and attachments as exhibits (54 pp.)

RESPONDENT DEPOSITIONS	
Complainant's Exhibit No.	DOCUMENT
123	Deposition of Judy WALRATH, Ph.D., dated June 24, 2004. In the Matter of Leach v. DuPont. (100 pp.)

EPA WITNESS PROFILES	
Complainant's Exhibit No.	DOCUMENT
124	Resume of Charles M. Auer, Director, Office of Pollution Prevention and Toxics, EPA
125	Resume of Oscar Hernandez, Ph.D., Director, Risk Assessment Division, EPA
126	Curriculum vitae of Jennifer Seed, Ph.D., Branch Chief, Risk Assessment Division, Office of Pollution Prevention and Toxics, EPA
127	Curriculum vitae of David G. Gray, Science International, Inc.

EPA DOCUMENTS RELATING TO THE REVIEW OF PFOA	
Complainant's Exhibit No.	DOCUMENT
128	Certified Statement of Oscar Hernandez dated October 7, 2004
129	68 FR 18626 - 18633 (April 16, 2003) PFOA Fluorinated Telomers, Request for Comment
130	Document by US EPA dated April 10, 2003, entitled, <u>Preliminary Risk Assessment of the Developmental Toxicity Associated with Exposure To PFOA & It's Salts</u> , OPPT/Risk Assessment Division (63 pp.)
131	Document by US EPA dated January 4, 2005, entitled, <u>Draft - Risk Assessment of The Potential Human Health Effects Associated with Exposure to PFOA and It's Salts</u>
132	Affidavit by Richard Hefter, US EPA, dated July 24, 2004, in support of the certified statement. High Production Volume Chemicals Branch, Risk Assessment Division / Office of Pollution Prevention and Toxics

EPA DOCUMENTS RELATING TO THE REVIEW OF PFOA	
Complainant's Exhibit No.	DOCUMENT
133	Certified statement by Oscar Hernandez, Director, and Richard Hefter, Chief, dated June 29, 2004. EPA/ High Production Volume Chemicals Branch and Risk Assessment Division in the Office of Pollution Prevention and Toxics
134	US EPA Consent Agreement for Docket No. TSCA -96-H-47 dated October 1, 1996. <i>In The Matter Of:</i> E.I. du Pont de Nemours and Co. (24 pp.)
135	Letter and TSCA Subpoena No. HQ-TPED-01 from Ann M. Pontius, Director, Office of Regulatory Enforcement, EPA, to Mr. Robert A. Bilott, Esq., Taft, Stettinius & Hollister, LLP, dated July 22, 2004. <i>In the Matter of:</i> E.I. du Pont de Nemours and Company, Wilmington, DE, Respondent (7 pp.)
136	Letter from Ilana S. Saltzbart, Esq., EPA, to Robert A. Bilott, Esq., Taft, Stettinius & Hollister, LLP, dated July 23, 2004. <i>In the Matter of:</i> E.I. du Pont de Nemours and Company, Wilmington, DE, Re: TSCA Subpoena No. HQ-TPED-001 (2 pp.)
137	Financial information about E.I. Du Pont De Nemours and Company (6 pp.)
138	EPA Status Report from Frank D. Kover, Chief, Chemical Hazard Identification Branch, to Joseph J. Merenda, Director, Assessment Division, dated April 21, 1981. Subject: 8EHQ-1180-0373S, 8EHQ-1180-0374S, 8EHQ-0281-0373S and 8EHQ-0281-0374S; regarding Preliminary Reports with Test Protocols and Final Reports of Teratology Study by 3M Company (7 pp.)
139	EPA Status Report from Frank D. Kover, Chief, Chemical Hazard Identification Branch, to Joseph J. Merenda, Director, Assessment Division, dated April 27, 1981. Subject: 8EHQ-0381-0394S; regarding Final Report of Oral Rangefinder Study in Pregnant Rats by 3M Company (4 pp.)
140	Letter from Charles M. Auer, Director, EPA, to Kenneth A. Cook, President, Environmental Working Group, dated May 28, 2003. In receipt of letter dated April 11, 2003. (1 p.) Enclosure: Letter from Richard H. Hefter, Chief, EPA, to A. Michael Kaplan, Ph.D., DuPont Haskell Laboratory, dated May 22, 2003, regarding TSCA 8(e) Reporting Requirements for PFOA Information (2 pp.)

EPA TSCA § 8(E) DOCUMENT COLLECTION	
Complainant's Exhibit No.	DOCUMENT
141	68 FR 33129-33140 (June 3, 2003). TSCA § 8(e); Notification of Substantial Risk, Policy Clarification & Reporting Guidance
142	43 FR 11110-11116 (March 15, 1978). Statement of Interpretation & Enforcement Policy; Notification of Substantial Risk
143	TSCA Section 8(e) Reporting Guide dated June, 1991
144	FEDERAL REGISTER NOTICES regarding the TSCA § 8(e) Compliance Audit Program (CAP); including as follows:
	56 FR 4128-4131 (February 1, 1991). Registration and Agreement for TSCA Section 8(e) Compliance Audit Program
	56 FR 19514-19515 (April 26, 1991). Registration and Agreement for TSCA Section 8(e) Compliance Audit Program Modification
	56 FR 2-3 (June 20, 1991). Registration and Agreement for TSCA Section 8(e) Compliance Audit Program Modification
	56 FR 49478 - 49479 (September 30, 1991). Registration and Agreement for TSCA Section 8(e) Compliance Audit Program Modification
	58 FR 37735 - 37742 (July 13, 1993). TSCA Section 8(e); Notice of Clarification and Solicitation of Public Comment

OTHER PFOA-RELATED DOCUMENTS	
Complainant's Exhibit No.	DOCUMENT
145	News article by Pamela Brust, the Marietta Times.com, dated January 21, 2005, entitled, <u>Little Hocking water system records highest levels of C8</u> (3 pp.)
146	News article by the Associated Press dated May 8, 2004, entitled, <u>DuPont Documents Unsealed in Lawsuit</u>
147	News article by Reuters dated February 1, 2005, entitled, <u>DuPont Gives CEO 14 Percent Salary Increase</u>
148	Letter and attachments from Kenneth A. Cook, President, Environmental Working Group, to Christine Todd Whitman, Administrator, EPA, dated April 11, 2003. Re: DuPont's failure to submit key health studies under the requirements of TSCA 8(e), 15 U.S.C. § 2607(e) (7 pp.)

OTHER PFOA-RELATED DOCUMENTS	
Complainant's Exhibit No.	DOCUMENT
149	CBI Document Control No. HEN-003-05 Letter from Peter D. Robertson, Esq., to Charles M. Auer, Director, EPA, dated December 7, 2004. DuPont's CBI Submission of Certain Material to the TSCA 8(e) Office
150	DVD of the videotaped deposition of Glenn EVERS, April 30, 2004. Part 1 of 3
151	Audio tape copy of ABC 20/20 with Brian Ross. Interview with E.I. du Pont de Nemours and Company's Global Vice President, Uma Chowdhry in late 2003 (approximately 60 minutes)

IV. DETERMINATION OF THE PROPOSED PENALTY AMOUNT

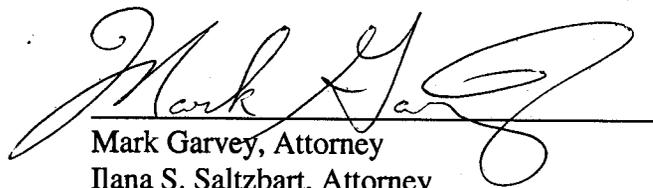
This is a proceeding for the assessment of a penalty. The Agency did not specify a proposed penalty in the Complaint. EPA has included in this initial prehearing exchange all factual information relevant to the assessment of a penalty. No later than fifteen (15) days after DuPont files its prehearing information exchange, Complainant will file a document specifying a proposed penalty and explain in detail how the proposed penalty was determined in accordance with the criteria set forth in Section 16 of the Toxic Substances Control Act, 15 U.S.C. § 2615, including a description of how the specific provisions of any Agency penalty or enforcement policies and/or guidelines were applied in calculating the penalty.

V. STATEMENT REGARDING PAPERWORK REDUCTION ACT OF 1980

The Paperwork Reduction Act ("PRA") of 1980, 44 U.S.C. §§ 3501 *et seq.*, does not apply to this proceeding. Accordingly, there is no applicable Office of Management and Budget control number nor does Section 3512 of the PRA apply to this case.

Respectfully submitted,

2/17/05
Date



Mark Garvey, Attorney
Ilana S. Saltzbar, Attorney
Meredith G. Miller, Attorney
Toxics and Pesticides Enforcement Division
Office of Civil Enforcement (2245A)
U.S. Environmental Protection Agency
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202 564-4168

CERTIFICATION OF SERVICE

I certify that the original of the above Complainant's Prehearing Exchange for Hearing on Count I, Docket Nos. TSCA-HQ-2004-0016, RCRA-HQ-2004-0016, and TSCA-HQ-2005-5001 has been filed with the Headquarters Hearing Clerk and that copies were sent:

one original and one copy by hand-delivery to:

Knolyn R. Jones
Headquarters Hearing Clerk
United States Environmental Protection Agency
1099 14th Street, N.W.
Washington, DC 20005

one copy by hand-delivery to:

Judge Barbara A. Gunning
Office of Administrative Law Judges
United States Environmental Protection Agency
1099 14th Street, N.W., Suite 350, Franklin Court
Washington, DC 20005

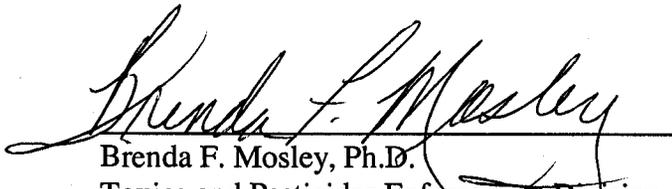
one copy by hand-delivery to:

Thomas Johnston, Esq.
McKenna, Long and Aldridge, LLP
1900 K Street, NW
Washington, DC 20006

one copy **without exhibits** by U.S. Mail and fax to:

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Date: 2-17-05