

Fourth Circuit Vacates PFAS Injunction, Raises Bar for Environmental Plaintiffs Seeking Injunctive Relief

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On June 3, 2026, the United States Court of Appeals for the Fourth Circuit vacated a district court order that enjoined Chemours Co. FC LLP's (Chemours) Washington Works facility in Parkersburg, WV, from discharging PFAS chemicals (specifically hexafluoropropylene oxide dimer acid—HFPO-DA) above its Clean Water Act (CWA) permit limits.¹ In *West Virginia Coalition, Inc. v. Chemours Co. FC, LLC*, the Fourth Circuit held that the district court misapplied the irreparable harm standard, thereby raising the bar for environmental plaintiffs seeking injunctive relief by requiring plaintiffs to establish irreparable harm to themselves, rather than to the general public.² Moreover, the Fourth Circuit held that environmental plaintiffs cannot establish irreparable harm solely CWA violations or permit exceedances.

Background

In December 2024, West Virginia Rivers Coalition, Inc. (Rivers Coalition) sued Chemours under the Clean Water Act's citizen suit provision and alleged that Chemours continuously violated its National Pollutant Discharge Elimination System (NPDES) permit by releasing polymers into the Ohio River.³ Chemours manufactures "high-performance" polymers, including HFPO-DA.⁴ HFPO-DA belongs to a class of polymers known as per- and polyfluoroalkyl substances (PFAS), commonly referred to as "forever chemicals."⁵

Chemours's NPDES permit allowed the manufacturer to discharge waste from two outfalls into the Ohio River.⁶ The permit limited the monthly average concentration of HFPO-DA to 1,100 parts per trillion (ppt) at one outfall and 1,400 ppt at the other.⁷ Plaintiffs alleged Chemours exceeded at least one outfall limit in January, May, June, July, August, September, October, November, and December 2024.⁸ Chemours entered into an administrative consent order with EPA "for the purpose of addressing...permit compliance issues."⁹ Nevertheless, Rivers Coalition sued Chemours and alleged that one of its members, Charlise Robinson (Robinson), suffered irreparable harm through exposure to HFPO-DA in her tap water.¹⁰ The district court granted the injunction after concluding that Rivers Coalition had presented sufficient evidence of irreparable harm to the movant. On appeal, the Fourth Circuit vacated, finding legal and factual errors in that determination.¹¹

Reasoning

The Fourth Circuit vacated the preliminary injunction, finding the district court incorrectly applied the irreparable-harm factor, one of four factors required under the *Winter* test for a preliminary injunction.¹² The court emphasized that "irreparable harm to the public, without irreparable harm to the movant, is not enough."¹³ The Fourth Circuit identified three legal errors in the lower court's ruling: (1) concluding that irreparable harm includes irreparable harm to the public; (2) presuming irreparable harm solely because a CWA violation occurred; and (3) concluding an excess discharge of HFPO-DA clearly caused irreparable harm.¹⁴

The Fourth Circuit also overturned the injunction because Rivers Coalition failed to demonstrate that it was more likely than not that its member, Ms. Robinson, would suffer harm based on a single exposure to tap water with more than 10 ppt of HFPO-DA. Rivers Coalition's expert testified that drinking water with more than 10 ppt of HFPO-DA made harm likelier, not more likely than not, as required for a preliminary injunction.¹⁵

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Practical Implications

West Virginia Coalition will make environmental group's future efforts to stop environmental contamination through injunctive relief more challenging, as the Fourth Circuit made clear that harm to the general public is insufficient. Instead, the group must demonstrate that it will suffer irreparable harm, which cannot be demonstrated through regulatory or permit violations. As such, plaintiffs must actually submit evidence that irreparable harm is more likely than not without the injunction.

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1 See *West Virginia Coal., Inc. v. Chemours Co. FC, LLC*, 178 F.4th 102, 107 (4th Cir. 2026) (providing factual and procedural case history); 33 U.S.C. § 1365(a), (b)(1) (allowing citizen suit filings for CWA violations).

2 See *West Virginia Coal.*, 178 F.4th at 107 (vacating district court decision because irreparable harm analysis incorrect). However, the Fourth Circuit made clear that Chemours's contention that *West Virginia Rivers Coalition* lacks Article III standing is unfounded. See *id.* at 110 (agreeing with district court that associational standing is sufficient).

3 See *id.* at 108-09 (explaining that Chemours's pollution output came from its Washington Works plant in Parkersburg, West Virginia).

4 See *id.* at 108. Chemours only manufactures the HFPO-DA polymer at this plant. See *id.*

5 See *id.*

6 See *id.* West Virginia was concerned about the potential health effects from HFPO-DA pollution into the Ohio River, resulting in the state issuing the NPDES permit.

7 See *id.* The NPDES permit, issued by the West Virginia state agency, restricted HFPO-DA emissions by the manufacturer at certain outfalls.

8 See *id.* at 109 (pointing to times Chemours was in violation of NPDES permit).

9 See *id.* (noting Chemours actively addressed violations with EPA as early as April 2023).

10 See *id.* at 111.

11 See *id.* at 113 (reviewing grant of preliminary injunction for abuse of discretion by reviewing factual findings for clear error and legal conclusions de novo).

12 See *id.* at 114; *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (setting forth four requirements for environmental plaintiffs seeking preliminary injunction). In *Winter*, the Supreme Court required environmental plaintiffs to "establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." See *Winter*, 555 U.S. at 20.

13 See *West Virginia Coal.*, 178 F.4th at 114-15.

14 See *id.* at 114.

15 See *id.* at 117 (revisiting expert testimony from trial and finding that testimony too attenuated).