

Formosa faces \$2.2M in new penalties for Texas pellet pollution



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San Antonio Bay Estuarine Waterkeeper

Initial construction of the building that houses the monitoring equipment for Formosa, in this October 2020 photo.

Two years after signing a [landmark \\$50 million federal court settlement](#) agreeing to end unauthorized pellet discharges from a large Texas Gulf Coast resin plant, Formosa Plastics has racked up more than \$2.2 million in new penalties from ongoing leaks.

Court monitoring of the settlement has found at least 110 detectable instances of microplastics being discharged from Formosa's Point Comfort, Texas, plant since March, in violation of the Clean Water Act, according to an environmental group that sued the company over the issue.

The new discharges have been detected by an expensive monitoring system, known as the wastewater sampling mechanism (WSM), which was designed and built as part of the federal court decree. The WSM started operating in early 2021.

In a statement, the environmental group, the San Antonio Bay Estuarine Waterkeeper, said the new leaks detected by the WSM reinforce evidence it presented in the 2019

federal trial.

"The District Court found that Formosa was a 'serial offender' of the Clean Water Act," said Amy Johnson, an attorney for the group. "The WSM shows just how right the judge was. Formosa is repeatedly discharging plastics into Lavaca Bay."

Formosa said it's put in a lot of work to try to end pellet leakage at its plant but has encountered challenges.

"While we have made significant progress toward our commitment to zero discharge of pellets, powders and flakes, we incurred challenges that resulted in visible plastics being captured by the wastewater sampling mechanism," the company said.

It said payments have been made to a fund, the [Matagorda Bay Mitigation Trust](#), set up by the court decree to disperse the \$50 million and any additional penalties.

Thus far, the money has gone to things like local environmental restoration and parks, funding for citizen efforts to monitor plastic pollution and programs to support the local fishing industry, which has been hurt by industrial pollution.

Future discharges will get more expensive for the company. The court settlement, which is still being monitored by a federal judge at the U.S. District Court in Houston, requires Formosa to pay \$20,000 for every violation detected in 2021. That increases to \$25,000 per violation in 2022.



San Antonio Bay Estuarine
Waterkeeper

A visual representation of the inside of the Wastewater Sampling Mechanism facility, from a court filing by the San Antonio Bay Estuarine Waterkeeper.

'New standard' for plastic discharge

Both Formosa and Waterkeeper see the WSM as something other companies or legislators should study to help control pellet leaks.

Pellet pollution has been attracting more attention from governments. In July, for example, the U.S. House [passed a provision](#) directing the Environmental Protection Agency to write much tougher pellet discharge rules for factories.

As well, Texas state officials have been looking at how to regulate unauthorized plastic leaks, and shareholder activist groups have announced agreements with several large resin makers over the

issue.

Formosa said it sees its work as leading to new standards for plastic discharges.

"We will continue to make improvements to our equipment and procedures to achieve our goal," the company said. "We believe we are reaching a level of cleanliness in

wastewater that is unprecedented in the industry and will set a new standard for all wastewater discharges [municipal and industrial] in relation to visible plastic and suspended solids content."

"It is Formosa's goal to be a leader in this area and share the lessons we have learned across the industry," the company said.

Waterkeeper said it also wants the WSM to be considered in any new government rules.

"Waterkeeper believes that the WSM should be part of discussions of regulating plastics companies' stormwater discharges because plastics should not be discharged into America's waters," Johnson said. "The WSM is a way for companies and regulatory agencies to determine whether there are plastics in that treated effluent."

It said the WSM, which was designed by an engineer hired by the group, is the first tool available to monitor and document pellet discharges from plastics factories.

In the lawsuit, which was filed in 2017, Waterkeeper presented hundreds of samples that volunteers collected by hand from waters around the Formosa plant, which sits on 2,500 acres on Lavaca Bay and other waterways that feed directly into the Gulf of Mexico.

The WSM is described in court documents as a 7,000-square-foot industrial structure directly on top of a 2-mile pipeline that takes Formosa's treated wastewater to Lavaca Bay.

The WSM contains several devices that detect tiny pieces of plastic in the effluent. Court documents say about 3.7 percent of Formosa's wastewater is diverted through the WSM. Waterkeeper said that means actual discharges are likely to be much greater than what is detected.

Formosa did not say how much the system cost to build. Johnson said her group does not know how much Formosa spent but said it's likely significant.

"There is expensive equipment and major construction," Johnson said. "It is a serious investment."

An outside engineer consulting with Waterkeeper designed the WSM, supervised its construction and has applied for patents for the system.

In court documents, Waterkeeper said it and Formosa worked cooperatively on building the WSM, but the two sides have also tangled in federal court over how to interpret

parts of the 2019 settlement agreement, which requires Formosa to pay \$50 million over five years.

The company said it is continuing to work on improvements, and Johnson said the agreement allows Waterkeeper input into ongoing plans.



San Antonio Bay Estuarine
Waterkeeper

A piece of monitoring
equipment that's part of
the Wastewater
Sampling Mechanism
building at the Formosa
plant.

Health impacts

Besides the WSM, Formosa said it has implemented additional "comprehensive" procedures at the Point Comfort plant to reduce pellet loss, and it is evaluating procedures at other factories in the U.S. using the industry's Operation Clean Sweep program.

The company said the work at Point Comfort is an "extensive investment of time and resources that Formosa has dedicated to this important initiative."

Waterkeeper, for its part, called on other companies to look at the WSM technology, and it pointed to studies it said show health threats from pellets that get in the environment.

In a Dec. 15 statement, it noted new studies from the International Pollutants Elimination Network that looked at how pellets can transport chemicals and threaten human health and ecosystems.

The [IPEN study](#) examined pellets in the environment worldwide, including some from the Point Comfort plant, and found they contain toxins like ultraviolet light stabilizers and polychlorinated biphenyls.

As well, Waterkeeper said that Lavaca Bay is an [EPA Superfund site](#) for mercury released from an Alcoa aluminum manufacturing operation there between 1965 and 1981. It said evidence presented at the 2019 trial showed mercury attached to plastic pellets in the bay.

Johnson said she's pleased the long-running court case has led to the development of the WSM technology and said the industry should look at it if it's serious about stopping illegal discharges.

"We as a society and the plastics industry have been saying [we] don't want to be discharging plastics," she said. "If [plastic companies] truly do care about discharging plastics into waters of the world, they'll look at this."