EPA Responses to interagency Comments Received from OMB on October 3, 2019

October 3, 2019

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COMMENTS ON THE SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

COMMENT 1: Could you please provide the summary of comments that was received on the 2015 proposal?

EPA Response: Below is a summary of the comments received on the proposed rule (80 FR 2885, January 21, 2015). The amendments in that proposed rule that do not pertain to the lifting of the articles exemption are not the subject of the supplemental proposal. This supplemental proposal does not propose to change any other aspects of the 2015 proposed rule. EPA is considering the comments received on the January 21, 2015, proposal and will respond to them with publication of the final rule (Docket ID: EPA-HQ-OPPT-2013-0225). The final rule would take final action on both the previously proposed rule and this supplemental proposal.

Summary of Comments

- 55 comments were received for the LCPFAC and PFAS SNUR; the comments included ongoing use claims, support of the SNUR, request for additional regulatory action, and concerns about the scope of the SNUR.
- 25 comments were made related to the articles exemption. These comments included:
  - A comment from the FluoroCouncil (Docket ID: EPA-HQ-OPPT-2013-0225-0057), which is comprised of five of the eight PFOA Stewardship companies, and which supports the SNUR and lifting the articles exemption. The comment states, "We see this Proposed Rule as [...] a way to build on the success of the Stewardship Program by further reducing environmental exposure to long-chain PFAS. However, the SNUR does not go far enough to prevent fluoropolymers and fluorinated polymer treated articles made using PFOA and related compounds from coming into the U.S."
  - Several comments from industry, primarily the semiconductor and automotive industry, stating ongoing uses of LCPFAC chemical substances in articles and requests that these uses be excluded from the SNUR.
  - Several requests that EPA broaden the scope of the significant new use to include all imported articles containing long-chain perfluoroalkyl sulfonate (PFAS) chemical substances.
  - One comment suggesting the inclusion of articles such as food-grade paper products.
- Several commenters claimed ongoing uses of LCPFAC, PFOA, or PFOS chemical substances and requested that EPA modify the proposed SNUR to specifically recognize and exclude from the definition of 'significant new uses' certain ongoing activities that do not appear to have been previously identified by the Agency to be ongoing.

  - Types of ongoing uses included use in textiles, firefighting foams, and adhesives.
  - Several commenters requested that EPA designate "use in semiconductor processing, manufacturing or semiconductor component assembly" as not a significant new use for LCPFAC chemical substances because this is an ongoing use.

- Several commenters raised concern over the issue of impurities, stating that the impurity levels of PFOA and its precursors cannot be completely eliminated. Additionally, commenters reported that fluorinated substances that do not fall into the scope of the SNUR may degrade into in-scope LCPFAC substances.
- One commenter requested a standard definition of "ongoing use."
- Comments outside scope of the SNUR:
  - Several commenters requested that EPA consider promulgating TSCA §6(a) rules to directly restrict perfluorinated chemicals and complete development of a detailed risk assessment to determine if PFCs "present or will present an unreasonable risk."
  - One commenter requested that EPA build a database of all the fluoropolymer manufacturers who have converted from LCPFCs to EPA compliant materials.
  - One commenter asked that EPA work to align regulatory standards with others, notably the EU.