

EPA Issues Orders to Inhance Technologies Related to Long-Chain PFAS SNUNs

Article By:

Lynn L. Bergeson

Richard E. Engler, Ph.D.

Carla N. Hutton

The U.S. Environmental Protection Agency (EPA) [announced](#) on December 1, 2023, that it issued orders to Inhance Technologies LLC directing it not to produce per- and polyfluoroalkyl substances (PFAS), “chemicals that are created in the production of its fluorinated high-density polyethylene [high-density polyethylene (HDPE)] plastic containers.” EPA states that in December 2022, Inhance submitted significant new use notices (SNUN) for nine long-chain PFAS. According to EPA, “[u]pon review of the SNUNs and consistent with EPA’s [Framework for Addressing new PFAS and New Uses of PFAS](#), EPA has determined that three of the PFAS (Perfluorooctanoic acid [PFOA], perfluorononanoic acid [PFNA] and perfluorodecanoic acid [PFDA]) are highly toxic and present unreasonable risks that cannot be prevented other than through prohibition of manufacture.” Therefore, under Section 5(f) of the Toxic Substances Control Act (TSCA), EPA is prohibiting the contained manufacture of PFOA, PFNA, and PFDA that are produced from the fluorination of HDPE.

EPA notes that it also determined that “the remaining six of the nine PFAS chemicals manufactured by Inhance (PFuDA [perfluoroundecanoic acid], PFDoA [perfluorododecanoic acid], PFTTrDA [perfluorotridecanoic acid], PFTeDA [perfluorotetradecanoic acid], PFHxDA [perfluorohexadecanoic acid] and PFOA [perfluoro-n-octadecanoic acid])” may present an unreasonable risk of injury to health or the environment and, under TSCA Section 5(e), is requiring Inhance to cease manufacture of these chemicals and to perform additional testing if it intends to restart production. According to EPA, Inhance’s current fluorination process for plastics produces all nine of the PFAS chemicals subject to these orders simultaneously, however, including PFOA, PFNA, and PFDA. Thus, EPA states, “the production of the other six PFAS could not restart so long as the fluorination process continues to produce PFOA, PFNA and PFDA.” These orders will be effective **February 28, 2024**. EPA states that it will post publicly available versions of the risk assessment and orders “soon” that will have all confidential business information (CBI) removed.

We have not reviewed the underlying risk assessment. Nevertheless, the wisdom of the extremely short timeline for the applicability of the order is questionable. The potential disruption to the supply chain if fluorinated containers can no longer be manufactured, imported, processed, distributed in

commerce, or used could be catastrophic for the economy. Given the decreases in PFOA, perfluorohexanesulfonic acids (PFHX), and PFNA in blood levels since the phaseout of intentionally manufactured PFOA as measured in the National Health and Nutrition Examination Survey (NHANES) data, it seems unjustified to ban the use of fluorinated containers without allowing the supply chain to adapt to other options.

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