

U.S. EPA Issues Final Guidance on PFAS SNUR

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On January 19, 2021, four days after the close of the comment period, U.S. EPA issued its final guidance document to aid in implementation of its Significant New Use Rule (SNUR) for long-chain perfluoroalkyl carboxylate and perfluoroalkyl sulfonate chemical substances (PFAS). Not surprisingly, in light of the short time between the close of comments and issuance of the guidance, the final guidance remained largely unchanged from the draft version.

In July 2020, U.S. EPA finalized its PFAS SNUR that requires notice and U.S. EPA review before manufacturing and processing for use certain long-chain PFAS that have been phased out in the United States. In addition, articles containing these long-chain PFAS as part of a surface coating cannot be imported into the United States without submission of a Significant New Use Notice (SNUN).

The guidance provides examples of what would and would not be articles subject to the SNUR as well as clarification on what is meant as a “surface coatings.” Although U.S. EPA declined to provide a regulatory definition of “surface coating” in the PFAS SNUR, the guidance indicates that any long-chain PFAS meeting one of the following two criteria would be a surface coating covered by the SNUR:

- Coating on any surface of an article that is in direct contact with humans or the environment during the article’s normal use or reuse, whether the coating is oriented towards the interior or exterior of the article; or
- Coating on any internal component, even if facing the interior of the article, if that component is in contact with humans or the environment during the article’s normal use or reuse.

Many environmental groups noted that the “direct contact” standard and the refusal to consider potential exposures associated with the disposal and/or misuse of these articles was contrary to the provisions of the PFAS SNUR and these groups are urging the Biden Administration to revisit the guidance. Because the new guidance is not labeled as “significant”, it did not need to follow the formal notice-and-comment process but this would also arguably allow the incoming Biden administration to quickly rework and issue its own guidance for implementing the PFAS SNUR.

We will continue to provide updates on efforts by the Biden Administration to implement the PFAS SNUR on the *Corporate Environmental Lawyer* blog.

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