



December 28, 2022

Dr. Michal Freedhoff  
Assistant Administrator  
Office of Chemical Safety and Pollution Prevention (OCSPP)  
U.S. Environmental Protection Agency

**Re: Significant New Use Rules on Certain Chemical Substances (22–1.5e)**  
**Docket ID: EPA–HQ–OPPT–2021–0847**

Dear Assistant Administrator Freedhoff,

The Association of State Drinking Water Administrators (ASDWA) appreciates the opportunity to provide comments on EPA’s recently proposed Significant New Use Rules on Certain Chemical Substances. ASDWA is the professional association that serves the leaders (and their staff) of the 57 state and territorial drinking water programs. Formed in 1984 to address a growing need for state administrators to have national representation, ASDWA has become a respected voice for states with Congress, EPA, and other Federal agencies.

ASDWA commends EPA for continuing to work towards meeting the Agency’s goals under the PFAS Strategic Roadmap by revisiting past PFAS regulatory decisions and addressing those that are insufficiently protective of public health and the environment. However, this proposed Significant New Use Rule (SNUR) as written will not achieve EPA’s goal of ensuring the Agency is appropriately reviewing the included per- and polyfluoroalkyl substances (PFAS) before they are used in commerce. ASDWA has repeatedly stated that EPA must use a holistic approach and utilize all the Agency’s regulatory authorities to address PFAS throughout the substances’ lifecycles in the environment. The Toxic Substance Control Act (TSCA) is the frontline regulatory framework to ensure harmful substances are not entering the environment. A holistic approach is particularly important for chemical substances where there is a lack of data and information to determine potential impacts on drinking water and human health.

This latest Significant New Use Rule (SNUR) includes seven PFAS compounds or compounds modified by PFAS. For each of these, EPA has concerns that these degradation products will persist in the environment, could bioaccumulate or biomagnify, and could be toxic. Additionally, for all seven of these PFAS, EPA notes that they “may present an unreasonable risk of injury to human health or the environment” due to a lack of “sufficient information to permit a reasoned evaluation.” However, EPA has included testing requirements for only two of the PFAS. ASDWA recommends that EPA use its Section 4 authority under TSCA to issue testing orders to require the manufacturers of these substances to develop additional information on the seven PFAS to appropriately assess their potential health risks.

EPA claims that these chemicals “[are] or will be produced in substantial quantities and that the substance either enters or may reasonably be anticipated to enter the environment in substantial quantities, or there is or may be significant (or substantial) human exposure to the substance.” Since none of the seven PFAS have any restrictions on surface water releases, it appears that EPA is allowing manufacturers to release these substances into surface waters, potentially in large quantities, that may be used as drinking water sources. At a minimum, EPA should classify releases of these substances to surface waters as a significant new use so that the Agency will have the ability to track these releases in the future if it is determined that these PFAS are more problematic than initially anticipated.

As EPA is aware, the Office of Management and Budget (OMB) is currently reviewing the Office of Ground Water and Drinking Water’s proposal for a National Primary Drinking Water Regulation (NPDWR) for PFOA and PFOS, two substances that were not initially deemed problematic but are now known to present significant health risks. Through this rulemaking, state drinking water programs and water utilities will assume the burden and cost of removing these harmful chemicals from surface and ground water sources. In almost every case, the costs for this treatment results in increased rates for customers, effectively transferring the burden of pollution from the manufacturers to the public. State drinking water programs and water utilities are cleaning up contamination that might have been prevented through improved source water protection and more stringent regulatory review.

Using TSCA to prevent contaminants from entering drinking water sources is much more effective and less expensive than removing them once they have become contaminated. Protecting drinking water sources is essential for sustaining safe drinking water supplies and protecting public health, the environment, and the economy. EPA must use its authority under TSCA to ensure we have the data needed to make informed risk assessments and to prevent releases of PFAS that may pose risks to drinking water and public health.

ASDWA appreciates this opportunity to provide comments and looks forward to further engaging with EPA on this topic. Please feel free to contact me at [aroberson@asdwa.org](mailto:aroberson@asdwa.org) if you would like to discuss these comments in more detail.

Sincerely,



J. Alan Roberson, P.E.

Executive Director

Association of State Drinking Water Administrators

cc: Radhika Fox - Assistant Administrator, OW  
Jennifer McLain - OGWDW  
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