



National Tribal Toxics Council

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September 28, 2018

Eric Burneson
Director, Standards and Risk Management Division
Office of Ground Water and Drinking Water (OGWDW)
Document Control Office (4607M)
US Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

RE: Comments on Per- and Polyfluorylalkyl Substances (PFAS) Docket ID EPA-HQ-OW-2018-0270

Dear Mr. Burneson:

The National Tribal Toxics Council (NTTC) appreciates the opportunity to provide comments on per- and polyfluoroalkyl substances (PFAS). In the May 11, 2018 memo authorizing acceptance of public comments, EPA wrote that the agency "will consider all comments with the purpose of:

- Obtaining information on ongoing efforts to characterize risks from PFAS and develop monitoring and treatment/cleanup techniques;
- Informing specific near-term actions, beyond those already underway, that are needed to address challenges currently facing states and local communities; and
- Developing risk communication strategies to address public concerns with PFAS."

As an EPA Tribal Partnership Group (TPG) supported by the EPA Office of Pollution Prevention and Toxics, the NTTC works on issues related to chemical safety, toxic chemicals, and pollution prevention for Indigenous people of the U.S. Through this partnership, we assist OPPT with education and outreach to tribes, and in turn, educate and inform EPA about effects of chemicals and pollution upon tribal people. In our capacity on the NTTC, and in our work for tribes and tribal organizations, our Council members have seen and heard of firsthand the multiple ways that tribal people interact with the natural environment to conduct their tribal lifeways.

EPA is the lead federal agency responsible for implementing the Toxic Substances Control Act, and thus, EPA has many options for specific near-term action to address challenges in dealing with PFAS. EPA is aware that PFAS is in fire-fighting foams that contaminate the groundwater, packaging for certain foods, commercial household products including cookware and furniture, in drinking water, waste treatment facilities and landfills, soil, animals, fish, plants, and thereby humans. EPA is aware that the Center for Disease Control (CDC) says that as little as 7-10 parts per trillion of PFAS in drinking water may be unsafe. EPA is aware that scientists still have significant work for understanding of how, when, and where PFAS is contaminating the environment, natural resources, and the people exposed to PFAS. This applies to products manufactured in the US, imported to the US, and of the processing of certain PFOA-related chemicals. EPA has the significant responsibilities to regulate PFAS, under TSCA, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, the Clean Water Act, and the Clean Air Act. Particular to TSCA, EPA must prevent the introduction and continued use of chemicals toxic to humans and the environment.

Under TSCA, EPA has applied a Significant New Use Rule (SNUR) to PFOS in four separate actions and to 277 chemically-related PFAS. These SNURs placed significant restrictions on the use *and import* of PFAS, as related in the Interstate Technology Regulatory Council's fact sheet "Regulations, Guidance, and Advisories for Per- and Polyfluoroalkyl Substances (PFAS)," (Mueller and Yingling, 2018). (emphasis added) As such, industries are allowed only certain limited uses in select industries and for certain applications. In addition, one of the SNURs required companies to report *all new uses* in the manufacture, import, or processing of certain PFOA-related chemicals for use in carpets or for aftermarket treatment. Additionally, a 2015 proposed SNUR would designate the manufacture, import, and processing of certain PFOA and PFOA-related chemicals (long-chain perfluoroalkyl carboxylates [PFCAs]) as a significant new use. The significant new use would apply to any use that is not ongoing after December 31, 2015, and for all other long-chain PFCAs for which there is currently no ongoing use.

Tribes are overloaded with the extensive needs to identify PFAS-contamination and remove or clean up the PFAS-contaminated materials. PFAS persists in the environment, moves through soil, and stays in water. Human exposure to PFAS is most likely from consumption of contaminated water or food. PFAS and PFAS-replacements have become so pervasive in the environment that the states of New Jersey and Michigan have issued "Do Not Eat" fish consumption advisories because resident fish contain unsafe levels of PFAS. Allowing an environmental contaminant in any form which is so pervasive and toxic that it triggers consumption advisories is not acceptable.

Hereafter, the term PFAS will include reference to PFAS-like chemicals that share the chemical and physical properties of PFAS, and to PFAS-replacement chemicals, such as GenX, when they have not been thoroughly studied and a determination by EPA has not been made regarding of safety for human health and the environment.

Exposure to PFAS can affect growth and development, reproduction, thyroid function, the immune system, the kidney, the liver, and lipid/lipidprotein. Also, children tend to have higher body burdens than adults do for a variety of potential reasons, such as lower rates of PFAS metabolic and excretion. This is particularly disturbing because developing children, infants, and fetuses are more susceptible to the endocrine disrupting effects on the thyroid, the brain, or the

immune system, since those hormonal systems are still being formed and are especially sensitive. Additionally, it is expected that those who observe their traditional tribal lifeways, and others who also experience higher exposures to PFAS and PFAS-replacements through greater doses, frequency, and duration than the general population.

Therefore, EPA needs to act now to protect the environment, natural resources, and people from contamination from, or exposure to PFAS as much as possible.

In the near-term, EPA must require a ban on importing consumer and manufacturing products containing PFAS to prevent further contamination from, and exposures to, PFAS and PFAS-like chemicals.

Action can be, and must be, quick. For instance, a September 2017 report issued by the state of Washington Department of Ecology described data showing that tribal fish consumption levels of resident fish, especially in Western Washington, exceed Washington Department of Health safe-consumption limits of 23 parts per billion of PFAS. Just months later in April 2018, the state of Washington banned the use of PFAS in food packaging, directing their Department of Ecology to determine if there are any safer alternatives.

Manufacturers must be made to use materials, and make products, that are known to be safer than PFAS, even if this requires reverting to less effective products.

Consumers must be notified when products in the market contain PFAS materials and be warned of the potential harmful health effects and thus be given the choice to buy or not buy such products.

Furthermore, EPA must require as soon as legally possible the removal of PFAS from paper and board materials that are allowed for food contact, such as pizza boxes and microwave popcorn bags. Studies as recently as 2016 and 2018 have reported PFAS substances in common grocery store staple foods including cereal, milk, eggs, fish, meat, and shellfish as well as in wild foods like game meat and fish.

PFAS removal efficiency of some tribal and community water treatment systems differs from advanced water treatment systems. Additionally, many tribes have members that use untreated water for drinking and other household use. EPA should develop guidance appropriate to tribes and rural small communities on whether PFAS monitoring of their drinking water systems is warranted, from the perspective of their PFAS contamination potential, treatment system capacity to handle it, and relevant hydrological and other factors.

EPA must quickly develop and implement risk communication strategies specifically for informing tribal communities of potential health risks from all types of PFAS contaminated or PFAS-containing media. Such strategies must specifically include low-cost, easily accessible means of preventing PFAS exposure for tribal people without using consumption or activity advisories that presume tribal members would or should avoid or reduce their tribal lifeways.

Strategies cannot be limited only to drinking water, but also must consider the natural resources that are impacted by PFAS or PFAS-like chemicals, to include the wild foods and their sources

whether on land, in sediment, or in fresh water and salt water, including untreated drinking water, as well as consumer products including food packaging.

We look forward to the Agency's written response to these comments within 90 days.. Should you or your staff have questions or comments regarding our letter, please contact myself, Dianne Barton, NTTC Chair, at (503) 731-1259 / bard@critfc.org or Fred Corey, NTTC Vice-Chair, at (207) 764-7765 / fcory@micmac-nsn.gov.

Sincerely,

A handwritten signature in cursive script that reads "Dianne C. Barton".

Dianne C. Barton, Chair
National Tribal Toxics Council