

ComEd. The scope of the trial-type hearing is limited to these challenged findings and recommendations. Pursuant to Rule 601 of the Commission's Rules of Practice and Procedure,⁴⁷ we also establish settlement judge procedures for this contested issue, as requested by ComEd.⁴⁸

26. Any interested entity seeking to participate in this trial-type hearing shall file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedure⁴⁹ no later than 15 days after the date of publication of this order in the **Federal Register**.

27. While we are setting the allocation of overhead costs to CWIP for a trial-type evidentiary hearing,⁵⁰ we encourage efforts to reach settlement before hearing procedures commence. To aid settlement efforts, we will hold the trial-type hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁵¹ If parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding. The Chief Judge, however, may not be able to designate the requested settlement judge based on workload requirements, which determine judges' availability.⁵² The settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of the appointment of the settlement judge concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assignment of the case to a presiding judge.

The Commission orders:

(A) A paper hearing and related procedures are hereby established concerning two contested issues, the accounting treatment of AROs and MGP

site remediation costs, as set forth in the body of this order.

(B) A trial-type hearing and related procedures, and settlement procedures are hereby established concerning one contested issue, the allocation of overhead costs to CWIP, as set forth in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act (FPA), particularly § 205, 206 and 301 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 CFR chapter I), a public hearing shall be held concerning the allocation of overhead costs to CWIP, as discussed in the body of this order. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 CFR 385.603, the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within 45 days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If parties decide to request a specific judge, they must make their request to the Chief Judge within five days of the date of this order.

(E) Within 60 days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of participants' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within 45 days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street NE, Washington, DC 20426, or remotely (by telephone or electronically), as

appropriate. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission, Commissioner Danly is not participating.

Issued: Issued December 8, 2023.

Debbie-Anne A. Reese,
Deputy Secretary.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2024-0041; FRL-11698-01-OCSPP]

Pesticides; Proposed Removal of Polytetrafluoroethylene From List of Approved Inert Ingredients for Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to remove polytetrafluoroethylene (CAS No. 9002-84-0) from the current list of inert ingredients approved for use in food use and nonfood use pesticide products because this inert ingredient has been identified as a per- and polyfluoroalkyl substance (PFAS) that is no longer used in any registered pesticide product.

DATES: Comments must be received on or before March 29, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2024-0041, online at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: RDfRNNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

⁴⁷ *Id.* § 385.601.

⁴⁸ ComEd Response at 11; ComEd Answer at 6.

⁴⁹ 18 CFR 385.214; see *FirstEnergy Corp.*, 185 FERC ¶ 61,099 at P 21 & n.61 (stating that interventions are permitted in a contested audit proceeding in which the audited person elects to contest one or more audit findings or remedies in a trial-type hearing).

⁵⁰ Enforcement staff is a participant in the trial-type hearing and settlement judge procedures. See 18 CFR 385.102(b), (c) (2022).

⁵¹ 18 CFR 385.603.

⁵² If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<https://www.ferc.gov/available-settlement-judges>).

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you engage in activities related to the registration of pesticide products, including but not limited to, the use of approved inert ingredients in registered pesticide products. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Entities engaging in the formulation and preparation of agricultural and household pest control chemicals or pesticide and other agricultural and household pest control chemicals or inert manufacturers and those who make proprietary inert ingredient formulations or pesticide and other agricultural chemical manufacturing generally (NAICS code 325320).

If you have any questions regarding the applicability of this action to a particular entity, consult either person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What is the Agency's authority for taking this action?

This action is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136–136y.

C. What action is the Agency taking?

EPA is considering removing from the inert ingredient list the chemical polytetrafluoroethylene (CAS No. 9002–84–0), also known as Teflon®. All pesticide products that initially used polytetrafluoroethylene as an inert ingredient have been cancelled or reformulated to no longer contain polytetrafluoroethylene. EPA believes it is appropriate to remove polytetrafluoroethylene from the inert ingredient list to prevent the introduction of this PFAS into new pesticide formulations without additional EPA review.

D. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit CBI information to EPA through email or <https://www.regulations.gov>. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/comments.html>.

II. Background

A. What are inert ingredients?

Most pesticide products contain substances in addition to the active ingredient(s) that are referred to as inert ingredients or sometimes as “other ingredients.” An inert ingredient generally is any substance (or group of similar substances) other than an active ingredient that is intentionally included in a pesticide product. Examples of inert ingredients include emulsifiers, solvents, carriers, aerosol propellants, fragrances, and dyes. Additional information about inert ingredients, including requirements, guidance and the InertFinder tool, can be accessed at <https://www.epa.gov/pesticideregistration/inert-ingredients-regulation>.

B. What is the approved list of inert ingredients?

EPA maintains a list of approved inert ingredients, available at <https://ordspub.epa.gov/ords/pesticides/f?p=INERTFINDER:1:::1::>. Inert ingredients that are on the approved list do not need further approval prior to inclusion in a pesticide formulation. However, applications for registration of individual formulations containing approved inert ingredients are subject to data requirements in 40 CFR part 158, regardless of whether the inert ingredient is on the approved list. If an application for registration of a pesticide product includes inert ingredients not on the approved list, the inert ingredient requires approval under section 3 of FIFRA, 7 U.S.C. 136a, and payment of a fee in accordance with section 33 of FIFRA, 7 U.S.C. 136w–8.

III. EPA's Proposed Action

A. Why is EPA considering this action?

PFAS are synthetic organic compounds that do not occur naturally in the environment but have widespread use in commerce. The strong carbon-fluorine bonds of PFAS make some of them resistant to degradation and thus highly persistent in the environment. Some PFAS have been detected in wildlife and in humans, indicating that at least some PFAS have the ability to bioaccumulate. Thus, exposure to PFAS is an urgent public health and environmental issue in the United States. As part of its strategic roadmap

to address risks posed by PFAS (https://www.epa.gov/system/files/documents/2021-10/pfas-roadmap_final-508.pdf), EPA identified some specific actions to further the Agency's directives to research, restrict, and remediate PFAS.

As part of the “whole-of-agency” approach to reduce PFAS use and releases, EPA has reviewed the Agency's list of chemical substances that have been approved for use as inert ingredients in pesticide products to determine whether any of these inert ingredients are PFAS. Based on that review, EPA is proposing to remove polytetrafluoroethylene (CAS No. 9002–84–0) from the current list of inert ingredients approved for use in food and nonfood pesticide products because it is a PFAS, and it is no longer used in currently registered pesticide products. This includes the revocation of the tolerance exemption for polytetrafluoroethylene under 40 CFR 180.960.

B. What effect would this action have?

Once an inert ingredient is removed from the list, any proposed future use of the inert ingredient would need to be supported by data provided to and reviewed by the EPA as part of a new inert ingredient submission request. The type of data needed to evaluate a new inert ingredient may include, among others, studies to evaluate potential carcinogenicity, adverse reproductive effects, developmental toxicity, genotoxicity as well as environmental effects associated with any chemical substance that is persistent or bioaccumulative. Information regarding the inert ingredient approval process may be found at <https://www.epa.gov/pesticide-registration/guidance-documents-inert-ingredients>.

EPA suggests that pesticide registrants review their records to ensure that the chemical substance, listed by chemical name and Chemical Abstracts Service Registry Number (CAS No.), in the docket for this action is no longer used as an inert ingredient in their registered pesticide products. While EPA has endeavored to carefully review its records, if a pesticide registrant is aware of a registered product containing polytetrafluoroethylene, that registrant should contact the Agency directly, using the contact listed under **FOR FURTHER INFORMATION CONTACT**.

Similarly, producers of proprietary mixtures currently approved for use as inert ingredients in pesticide products should also review their records to ensure that the chemical substance listed in the docket for this action is, in fact, not currently used in their proprietary mixtures.

After the close of the comment period, EPA will consider all comments received and determine an appropriate final action.

Dated: February 22, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-11728-01-R9]

Clean Air Act Operating Permit Program; Order on Petition for Objection to State Operating Permit for Agua Fria Generating Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition.

SUMMARY: The Environmental Protection Agency (EPA) Administrator signed an order dated January 30, 2024, granting in part and denying in part a petition dated June 1, 2023, from Sierra Club. The petition requested that the EPA object to a Clean Air Act (CAA) title V operating permit issued by the Maricopa County Air Quality Department (MCAQD) to the Salt River Project Agricultural Power District (SRP) Agua Fria Generating Station for its electricity generating station located in Glendale, Arizona.

FOR FURTHER INFORMATION CONTACT: Catherine Valladolid, EPA Region 9, (415) 947-4103, Valladolid.catherine@epa.gov. The final order and petition are available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

SUPPLEMENTARY INFORMATION:

The EPA received a petition from Sierra Club dated June 1, 2023, requesting that the EPA object to the issuance of operating permit no. P0009346, issued by MCAQD to SRP Agua Fria Generating Station in Glendale, Arizona. On January 30, 2024, the EPA Administrator issued an order granting in part and denying in part the petition. The order itself explains the basis for the EPA's decision.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may request judicial review of those portions of an order that deny issues in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than April 29, 2024.

Dated: February 21, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2023-0613; FRL-11608-02-OCSPPP]

Formaldehyde; Draft Risk Evaluation Peer Review by the Science Advisory Committee on Chemicals (SACC); Request for Comments on Experts Being Considered for Participation as Ad Hoc Peer Reviewers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comments on the list of candidates under consideration for selection as *ad hoc* peer reviewers assisting the Science Advisory Committee on Chemicals (SACC) with their peer review of the Agency's evaluation of the risks from formaldehyde being conducted to inform risk management decisions under the Toxic Substances Control Act (TSCA). The list of candidates provides the names and biographical sketches of all interested and available candidates identified from the responses to the call for nominations and other sources. Public comments on these candidates will be used to assist the Agency in selecting approximately 10-15 *ad hoc* peer reviewers to assist the SACC with the identified peer review.

DATES: Submit your comments on or before March 14, 2024.

ADDRESSES: Submit comments, identified by docket identification (ID) number EPA-HQ-OPPT-2023-0613, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official (DFO) is Tamue Gibson, Mission Support Division (7602M), Office of Program Support, Office of Chemical Safety and Pollution Prevention, Environmental

Protection Agency; telephone number: (202) 564-7642; email address: gibson.tamue@epa.gov; or call the SACC main office at (202) 564-8450.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What action is the Agency taking?

The Agency is seeking public comments on scientific and technical experts that EPA is considering for service as *ad hoc* peer reviewers assisting the SACC with the peer review of the Agency's evaluation of the risks from formaldehyde being conducted to inform risk management decisions under TSCA. The Office of Pollution Prevention and Toxics (OPPT) collaborated with the Office of Pesticide Programs (OPP) to develop hazard assessments for human and ecological health. EPA expects to ask the SACC to consider and review these joint hazard assessments in addition to the OPPT exposure and risk characterizations. This SACC peer review is in addition to prior external peer reviews by the National Academies of Science, Engineering, and Medicine (NASEM), the EPA's Human Studies Review Board (HSRB) and SACC peer reviews of related scientific issues. The Agency is leveraging these peer reviews to support further development of the risk evaluation of formaldehyde. For additional information, please see the Agency's request for nominations of *ad hoc* expert reviewers that appeared in the **Federal Register** of December 26, 2023 (88 FR 88910 (FRL-11608-01-OCSPPP)).

B. What is the Agency's authority for taking this action?

EPA established the SACC in 2016 in accordance with TSCA, 15 U.S.C. 2625(o), to provide independent advice and expert consultation with respect to the scientific and technical aspects of issues relating to the implementation of TSCA. The SACC operates in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. 10, and supports activities under TSCA, 15 U.S.C. 2601 *et seq.*, the Pollution Prevention Act (PPA), 42 U.S.C. 13101 *et seq.*, and other applicable statutes.

C. Does this action apply to me?

This action is directed to the public in general and may be of particular interest to those involved in the manufacture, processing, distribution, and disposal of the subject chemical substance, and/or those interested in the assessment of risks involving chemical substances and mixtures regulated under TSCA.