

March 4, 2021

Jane Nishida
Acting Administrator
US Environmental Protection Agency Mail Code 1101A
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: Request to Reconsider Denial of TSCA Petition to Require Critical Research to Understand the Health Impacts of PFAS Pollution on North Carolina Communities

Dear Acting Administrator Nishida:

We are six public health and environmental justice groups in Eastern North Carolina. Our groups represent communities impacted by widespread contamination of the Cape Fear River basin by Per- and Polyfluoroalkyl Substances (PFAS) manufactured for decades at the Chemours (formerly DuPont) facility in Fayetteville.

We are asking you to reconsider a troubling and unsupportable decision by the Trump EPA that denies North Carolinians the scientific data to understand the long-term health consequences of PFAS exposure and refuses to hold Chemours responsible under the Toxic Substances Control Act (TSCA) for critical health and environmental studies that should have been performed decades ago.

On October 14, 2020, our groups petitioned the Environmental Protection Agency (EPA) under section 21 of TSCA to require health and environmental effects testing on 54 PFAS manufactured at the Chemours facility. The petition sought issuance of a rule or order under section 4 of TSCA compelling Chemours to fund this testing under the direction of a panel of independent scientists. The 54 PFAS have been found in human blood, drinking water, groundwater, soil, air, and locally produced food adjacent to and downstream of the Fayetteville plant as a result of emissions and discharges spanning decades. Despite this extensive exposure, Cape Fear communities lack adequate information on the harm to health which they may have suffered, and health professionals lack the tools to provide effective care and treatment.

As you know, PFAS are often described as “forever chemicals” because they are readily transported around the globe and build up in people and wildlife. These chemicals take thousands of years to break down in the environment and can remain in our bodies for decades. Many PFAS are pervasive in the blood of the US population.

The October 14 petition builds on existing scientific understanding of PFAS as a class by proposing that the 54 PFAS produced by Chemours be tested for the adverse health and environmental effects that have been linked to well-studied class members, such as PFOA and PFOS. These endpoints include cancer, thyroid disease, birth defects, hormone disruption, decreased fertility, and immune system suppression. The proposed testing includes studies in laboratory animals as well as research into the relationship between health outcomes and PFAS exposure among people in Cape Fear communities. Studies to determine effects on fish and how the PFAS behave in the environment would also be conducted.

On January 7, 2021, the previous Administration denied the petition. The denial affirmed EPA’s “high concern” about PFAS and did not dispute that all PFAS are of concern for numerous health effects based on the properties of the class. Nor did it deny that most of the 54 PFAS have been detected in the environment, resulting in exposure by North Carolina residents and putting them at risk of harm. Instead, the denial claimed that the petition failed to demonstrate “that existing information and experience are insufficient . . . for each of the 54 PFAS” and that testing “is necessary” to develop data on their health and environmental effects. This claim is disingenuous and misleading.

EPA’s 2019 [PFAS Action Plan](#) recognizes that “[t]here are many PFAS of potential concern to the public that may be found in the environment [and] [m]ost of these PFAS lack sufficient toxicity data to inform our understanding of the potential for adverse human or ecological effects.” Thus, to deny the petition merely because petitioners had not conducted an exhaustive literature search on each of the 54 PFAS ignores the reality that there is a dearth of adequate data on nearly all PFAS to which people are exposed. As the federal agency responsible for protecting people and the environment, it is EPA’s job to determine how much information is available on these PFAS and whether testing is necessary to assess the health impacts of PFAS exposure. Yet EPA has failed to use its broad testing authority under TSCA to require any health effects studies on PFAS (or other chemicals of concern).

To eliminate any doubt about the need for testing, petitioners’ scientific consultants have now searched several public databases for relevant information on the 54 PFAS. As expected, this comprehensive search shows that, overwhelmingly, these PFAS lack most or all of the studies proposed in our petition. To the extent data are available, they are extremely limited and generally fail to adequately address critical PFAS-specific endpoints.

The Biden Administration has identified addressing PFAS pollution as a top priority and, at his confirmation hearing before the Senate Committee on Environment and Public Works, Administrator-designate Michael Regan reaffirmed this priority. Reversing the denial of the TSCA testing petition filed by frontline communities bearing the brunt of PFAS pollution would be an early demonstration of the Administration’s commitment to strong action on PFAS and environmental justice.

We therefore call on you to reconsider and grant the petition and use EPA’s broad TSCA authority to require testing on the 54 PFAS. We are attaching a formal request for reconsideration which responds to your predecessor’s petition denial in greater detail.

Upon granting the petition, EPA should begin a dialogue with our groups and other stakeholders on how to frame testing requirements under TSCA section 4 to obtain the necessary data efficiently and without duplication. This process should receive the highest priority within EPA so research to understand PFAS health impacts on our communities can begin as soon as possible.

Your staff should reach out to our counsel Bob Sussman at bobsussman1@comcast.net with any questions.

Respectfully submitted,

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