



Public Review DRAFT: December 9, 2020

Document ID No.: RIN 2070-ZA23

DRAFT

Compliance Guide for Imported Articles Containing Surface Coatings Subject to the Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule

This guide was prepared pursuant to Executive Order 13891 and “EPA Guidance; Administrative Procedures for Issuance and Public Petitions” (85 FR 66230, October 19, 2020). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The statements in this document are intended solely as guidance to aid in complying with the EPA regulation “Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule” and the implementing regulations in 40 CFR part 721.

To determine whether EPA has revised this guide and/or to obtain copies, contact EPA’s TSCA Hotline at (202) 554-1404 in DC, or consult the EPA’s TSCA PFAS website at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-and-polyfluoroalkyl-substances-pfas>. The full text of the implementing regulation can be found at 40 CFR Part 721 and also in the **Federal Register** (85 FR 45109, July 27, 2020) and in the rulemaking docket, identified under EPA docket ID No. EPA-HQ-OPPT-2013-0225 and available online at <https://www.regulations.gov>.

I. Introduction

This document is issued by the U.S. Environmental Protection Agency (EPA) as the official compliance guide for imported articles that may contain long-chain perfluoroalkyl carboxylate chemical substances as part of a surface coating. The information in this guide was compiled from and based on the EPA regulation entitled, “Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule,” published on July 27, 2020. EPA is continually improving and updating its rules, policies, compliance programs, and outreach efforts. You may determine whether EPA has revised or supplemented the information in this guide by consulting EPA’s perfluoroalkyl and polyfluoroalkyl substances (PFAS) website at <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-and-polyfluoroalkyl-substances-pfas>.

Contents

This guide is organized as follows:

- I. [Introduction](#)
- II. [Regulation Summary](#)
- III. [Guidance for Articles Subject to the SNUR](#)
- IV. [How to Comply](#)
- V. [For More Information](#)
- [Appendix: Acronym List](#)

Who should use this guide?

You should use this guide if you believe you import long-chain perfluoroalkyl carboxylate (LCPFAC) chemical substances as part of a surface coating on articles.¹ How to determine whether you fall into this category is outlined in Section III of this guide. Many of the following types of businesses may be covered by this guide:

- Manufacturers (including importers) of one or more of subject chemical substances (NAICS codes 325 and 324110); e.g., chemical manufacturing and petroleum refineries.
- Fiber, yarn, and thread mills (NAICS code 31311).
- Carpet and rug mills (NAICS code 314110).
- Home furnishing merchant wholesalers (NAICS code 423220).
- Carpet and upholstery cleaning services (NAICS code 561740).
- Manufacturers of computer and other electronic products, appliances, and components (NAICS codes 324 and 335).
- Manufacturers of surgical and medical instruments (NAICS 339112).
- Merchant wholesalers (NAICS codes 423 and 424).
- Stores and retailers (NAICS codes 442, 442, 444, 448, 451, and 454).
- Providers of other support services (NAICS code 561990).

¹ Manufacturers, importers, and processors of LCPFAC chemical substances that are not a part of a surface coating on articles are subject to the final rule (85 FR 45109, July 27, 2020); however, this compliance guide is specifically for the application of LCPFAC chemical substances as surface coatings.

35 **What requirements does this guide cover?**

36 This guide describes the significant new use EPA identified under section 5(a)(2) of the Toxic Substances Control
37 Act (TSCA) that covers the import of an article or category of articles with certain LCPFAC chemicals as part of the
38 surface coating, as established by EPA's final rule "Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl
39 Sulfonate Chemical Substances; Significant New Use Rule" (85 FR 45109, July 27, 2020) and the implementing
40 regulations at 40 CFR Part 721.

41 Specifically, this guide provides additional clarity on what is meant by a "surface coating," identifies which entities
42 are regulated, describes the activities that are required or prohibited, and summarizes the notification
43 requirements of the final SNUR.

44 This compliance guide explains your federal compliance obligations with respect to the regulation under TSCA
45 section 5(a)(2) of the import of a subset of LCPFAC chemical substances as part of a surface coating on articles.

46 **How do I obtain a copy of the SNUR?**

47 A complete copy of the final rule is in the Federal Register (Vol. 85, p. 45109) and in docket EPA-HQ-OPPT-2013-
48 0225 at <https://www.regulations.gov/>, which also includes supporting documents.

49 See the section entitled "For More Information" for additional information resources.

50 **II. Regulation Summary**

51 **Regulation Summary**

52 On July 27, 2020, EPA finalized a Significant New Use Rule giving the Agency the authority to review an expansive
53 list of products containing certain PFAS before they can be manufactured, sold, or imported in the United States.
54 The SNUR requires notice and EPA review before manufacturing and processing for any use of certain long-chain
55 PFAS (both LCPFAC and perfluoroalkyl sulfonate chemical substances) that have been phased out in the United
56 States. Additionally, pursuant to the SNUR, articles containing certain LCPFAC as a surface coating cannot be
57 imported into the United States without submission of a Significant New Use Notice (SNUN).

58 Importers and processors of a chemical substance as part of an article are generally exempted from SNURs
59 pursuant to 40 CFR 721.45(f), but the exemption can be made inapplicable in a particular SNUR if EPA makes an
60 affirmative finding that there is reasonable potential for exposure to a chemical substance through an article or
61 category of articles (see TSCA section 5(a)(5)). For this SNUR, EPA lifted the imported article exemption at 40 CFR
62 721.45(f). Importers of certain LCPFAC chemical substances (Table 1) and perfluorooctanoic acid (PFOA) or its salts
63 (see examples in Table 2) as part of a surface coating on articles are subject to the SNUR. The article exemption
64 still applies to LCPFAC chemical substances not listed Table 1 including those LCPFAC that are not PFOA or its salts,
65 with the exception of the import of carpets, for which the import exemption is already inapplicable (78 FR 62443,
66 October 22, 2013; FRL-9397-1).

67 The other exemption in 40 CFR 721.45(f), for processing a chemical substance as part of an article, remains
68 applicable. Importers of the following LCPFAC chemical substances as part of a surface coating on articles are
69 subject to the SNUR:

Table 1—LCPFAC Chemical Substances Subject to Reporting After December 31, 2015

Chemical Name	CAS Registry No. (CASRN)	EPA Accession No.	TSCA Chemical Inventory Name
Perfluorooctyl iodide	507-63-1	N/A	Octane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-8-iodo-
Tetrahydroperfluoro-1-decanol	678-39-7	N/A	1-Decanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-
Perfluoro-1-dodecanol	865-86-1	N/A	1-Dodecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafuoro-
Perfluorodecyl iodide	2043-53-0	N/A	Decane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8-heptadecafluoro-10-iodo-
1,1,2,2-Tetrahydroperfluorododecyl iodide	2043-54-1	N/A	Dodecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10-heneicosafuoro-12-iodo-
Perfluorodecylethyl acrylate	17741-60-5	N/A	2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-heneicosafuorododecyl ester
1,1,2,2-Tetrahydroperfluorodecyl acrylate	27905-45-9	N/A	2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester
1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-Pentacosafuoro-14-iodotetradecane	30046-31-2	N/A	Tetradecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12-pentacosafuoro-14-iodo-
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-Pentacosafuorotetradecan-1-ol	39239-77-5	N/A	1-Tetradecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-pentacosafuoro-
3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-Nonacosafuorohehexadecan-1-ol	60699-51-6	N/A	1-Hexadecanol, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-nonacosafuoro-
1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-Nonacosafuoro-16-iodohexadecane	65510-55-6	N/A	Hexadecane, 1,1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14-nonacosafuoro-16-iodo-
Sodium;2-methylpropane-1-sulfonate	68187-47-3	N/A	1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4-16-alkyl)thio]propyl]amino] derivs., sodium salts
1,1,2,2-Tetrahydroperfluoroalkyl (C8-C14) alcohol	68391-08-2	N/A	Alcohols, C8-14, .gamma.-.omega.-perfluoro
Thiols, C8-20, gamma-omega-perfluoro, telomers with acrylamide	70969-47-0	N/A	Thiols, C8-20, .gamma.-.omega.-perfluoro, telomers with acrylamide
Silicic acid (H ₄ SiO ₄), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol	125476-71-3	N/A	Silicic acid (H ₄ SiO ₄), sodium salt (1:2), reaction products with chlorotrimethylsilane and 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluoro-1-decanol
Thiols, C4-20, gamma-omega-perfluoro, telomers with acrylamide and acrylic acid, sodium salts)	1078712-88-5	N/A	Thiols, C4-20, .gamma.-.omega.-perfluoro, telomers with acrylamide and acrylic acid, sodium salts
1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-(2-[(.gamma.-.omega.-perfluoro-C4-20-alkyl)thio]acetyl) derivs., inner salts	1078715-61-3	N/A	1-Propanaminium, 3-amino-N-(carboxymethyl)-N,N-dimethyl-, N-[2-[(.gamma.-.omega.-perfluoro-C4-20-alkyl)thio]acetyl] derivs., inner salts
Polyfluoroalkyl betaine (generic)	CBI	71217	Polyfluoroalkyl betaine (PROVISIONAL)
Modified fluoroalkyl urethane (generic)	CBI	89419	Modified fluoroalkyl urethane (PROVISIONAL)
Perfluorinated polyamine (generic)	CBI	274147	Perfluorinated polyamine (PROVISIONAL)

71 In addition to the subset of LCPFAC chemical substances identified in the list above, PFOA and its salts are
 72 subject to the final rule. PFOA and its salts are considered LCPFAC chemical substances. PFOA and examples of
 73 PFOA salts with CASRNs and chemical names are as follows:

74 *Table 2—PFOA and Examples of Its Salts*

Chemical Name	CAS Registry No. (CASRN)	TSCA Chemical Inventory Name
Pentadecafluorooctanoyl fluoride	335-66-0	Octanoyl fluoride, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-
Perfluorooctanoic acid	335-67-1	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-(PFOA)
Silver perfluorooctanoate	335-93-3	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, silver (+) salt (1:1)
Sodium perfluorooctanoate	335-95-5	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1)
Potassium perfluorooctanoate	2395-00-8	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, potassium salt (1:1)
Ammonium perfluorooctanoate	3825-26-1	Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (APFO)

75 Ongoing Uses Not Subject to the SNUR

76 The timing of when a use is commenced is relevant to determining whether a use is an ongoing use not subject to
 77 the SNUR. Uses that arose after the January 21, 2015 publication of the proposed rule are significant new uses
 78 that require notification and review by EPA. These are distinguished from uses that existed at the time of the
 79 publication of the proposed rule. If EPA received public comment on either the 2015 proposed rule or 2020
 80 supplemental rule that the use was ongoing at the time of the publication of the proposed rule, and the use was
 81 identified as ongoing in the final SNUR, then the use is considered an ongoing use not subject to the SNUR. Uses
 82 that were ongoing as of the publication of the proposed rule would not be considered ongoing uses if they ceased
 83 by the date of issuance of the final SNUR. The SNUR identified the manufacture, import, or processing of certain
 84 LCPFAC chemical substances for the following uses as ongoing:

- 85 • Use of LCPFAC chemical substances for use in an antireflective coating, photoresists, or surfactant for use in
 86 photomicroolithography and other process to produce semiconductors or similar components of electronic or
 87 other miniaturized devices.
- 88 • Use of 2-Propenoic acid, 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl ester (CASRN 27905-45-
 89 9) as a coating or component of a hydrophobic and/or oleophobic coating or barrier applied to
 90 manufactured articles or component of articles using an energy source or plasma deposition methods,
 91 which include a pulse deposition mode. Examples of such articles include: electronic devices and
 92 components thereof, medical consumables and bio-consumables, filtration devices and filtration materials,
 93 clothing, footwear and fabrics.
- 94 • Use of Silane, trichloro(3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)-(CASRN 78560-44-8) as a
 95 surface treatment to make low refractive index resin for optical applications; surface treatment for minerals,
 96 particles and inorganic surfaces for hydrophobicity; and monomer to make specialty resins hydrophobic.
- 97 • Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CASRN 335-67-1) as a surfactant and
 98 coating as part of the following articles: stickers, labels, and parts to which those stickers and labels are
 99 attached.

- 100 • Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4-16-
- 101 alkyl)thio]propyl]amino] derivs., sodium salts (CASRN 68187-47-3); Thiols, C8-20, .gamma.-.omega.-
- 102 perfluoro, telomers with acrylamide (CASRN 70969-47-0); or Perfluorinated polyamine (generic
- 103 (ACC274147) as a component in fire extinguishing agent.
- 104 • Use of Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro- (CASRN 335-67-1); Octanoic acid,
- 105 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, sodium salt (1:1) (CASRN 335-95-5); or Octanoic acid,
- 106 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-, ammonium salt (1:1) (CASRN 3825-26-1) in automotive
- 107 articles, both in factory assembly and replacement parts.
- 108 • Use of Poly(difluoromethylene), .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoro-,
- 109 ammonium salt (1:1) (CASRN 65530-70-3); Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-
- 110 (phosphonooxy)ethyl]-, ammonium salt (1:1) (CASRN 65530-71-4); or Poly(difluoromethylene), .alpha.-
- 111 fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:2) (CASRN 65530-72-5) in the manufacturing of
- 112 architectural coatings or wood coatings, at a maximum concentration of 0.1% by weight.
- 113 • Use of Poly(difluoromethylene), .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoro-,
- 114 ammonium salt (1:1) (CASRN 65530-70-3); Poly(difluoromethylene), .alpha.-fluoro-.omega.-[2-
- 115 (phosphonooxy)ethyl]-, ammonium salt (1:1) (CASRN 65530-71-4); or Poly(difluoromethylene), .alpha.-
- 116 fluoro-.omega.-[2-(phosphonooxy)ethyl]-, ammonium salt (1:2) (CASRN 65530-72-5) in the manufacturing of
- 117 industrial primer coatings for non-spray applications to metal by coil coating application, at a maximum
- 118 concentration of 0.01% by weight.
- 119 • Use of Alcohols, C8-14, .gamma.-.omega.-perfluoro (CASRN 68391-08-2) in the manufacture of coatings and
- 120 finishes for a variety of textile, leather, and hard surface treatments, and in the manufacture of wetting
- 121 agents.
- 122 • Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-[2-
- 123 hydroxyethyl]poly(difluoromethylene) (1:1) (CASRN 65545-80-4) in water-based inks.
- 124 • Use of Poly(difluoromethylene), .alpha.-[2-[(2-carboxyethyl)thio]ethyl]-.omega.-fluoro-, lithium salt (1:1)
- 125 (CASRN 65530-69-0) in photo media coatings.
- 126 • Use of Ethanol, 2,2'-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-
- 127 (phosphonooxy)ethyl]poly(difluoromethylene) (2:1) (CASRN 65530-63-4); Ethanol, 2,2'-iminobis-, compd.
- 128 with .alpha.,.alpha.'-[phosphinicobis(oxy-2,1-ethanediyl)]bis[.omega.-fluoropoly(difluoromethylene)] (1:1)
- 129 (CASRN 65530-64-5); or Ethanol, 2,2'-iminobis-, compd. with .alpha.-fluoro-.omega.-[2-
- 130 (phosphonooxy)ethyl]poly(difluoromethylene) (1:1) (CASRN 65530-74-7) in paints and coatings, grouts, and
- 131 sealers.
- 132 • Use of Poly(oxy-1,2-ethanediyl), .alpha.-hydro-.omega.-hydroxy-, ether with .alpha.-fluoro-.omega.-[2-
- 133 hydroxyethyl]poly(difluoromethylene) (1:1) (CASRN 65545-80-4) in paints, coatings, ink jet inks, and ink
- 134 masterbatch.
- 135 • Use of 1-Propanesulfonic acid, 2-methyl-, 2-[[1-oxo-3-[(.gamma.-.omega.-perfluoro-C4-16-
- 136 alkyl)thio]propyl]amino] derivs., sodium salts (CASRN 68187-47-3) in adhesives.

137 If you are using a LCPFAC chemical substances listed above for the specific use listed, then that use is not subject

138 to the SNUR and this guidance does not apply.

139

III. Guidance for Articles Subject to the SNUR

140

What is an article?

141 As defined at 40 CFR 704.3, article means a manufactured item: (1) which is formed to a specific shape or design
142 during manufacture; (2) which has end use function(s) dependent in whole or in part upon its shape or design
143 during end use; and (3) which has either no change of chemical composition during its end use or only those
144 changes of composition which have no commercial purpose separate from that of the article, and that result
145 from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except
146 that fluids and particles are not considered articles regardless of shape or design.

147 An imported article must have an end-use function dependent in whole or in part upon a shape or design that
148 was present at the point of import. If the shape and design of an item at the point of import does not serve any
149 function with respect to the item's end use, then the item being imported is not an article.

150 **EXAMPLE:** Plastic or metallic blocks or sheets imported and then processed in such a way that they
151 entirely lose the shape they had at the point of import (e.g., by being melted down, molded, extruded,
152 cut up extensively or into small pieces, or further reacted) would not qualify as articles at the point of
153 importation. Conversely, if plastic or metallic sheeting is imported with a specific thickness, the sheeting
154 may still be considered an imported article even though the expected end use of the sheeting may
155 involve cutting or trimming to a different length or width. However, there must still be a relationship
156 between the shape or design of the sheeting and the end use of the sheeting.

What are examples of articles subject to the SNUR?

157 Because the LCPFAC rule is for significant new uses, the following is a non-exhaustive list of potential articles
158 that may use LCPFAC chemical substances as part of a surface coating on the article:
159

- Apparel
- Outdoor equipment
- Automotive parts
- Carpets
- Furniture
- Electronic components
- Light bulbs
- Solar panels
- Paper goods
- Luggage
- Construction materials

What is not an article?

160 Products such as paints, lubricants, and fire-fighting foam are not articles. A paint, however, would be
161 considered as part of an article if applied to an article (e.g., paint on a car is considered as part of an article but
162 paint in a can is not an article under TSCA). Additionally, a lubricant applied to an article would be considered as
163 part of an article.
164

165 **EXAMPLE:** A lubricant such as automotive grease would be considered part of an article when already
166 included within an automobile's engine. When automotive grease is purchased by a consumer at a car
167 supply store to add to the automobile, that automotive grease would not be considered an article.

168 **What is a surface coating?**

169 A coating is a material applied in a thin layer to a surface as a protective, decorative, or functional film. The term
170 “coating” often refers to paints such as lacquers or enamels, but also refers to films applied to other materials
171 including, but not limited to, paints, varnishes, sealants, adhesives, inks, maskants, and temporary protective
172 coatings.

173 During the public comment period for the 2020 supplemental proposal, several commenters asked EPA to
174 define “surface coating” and to include a definition in the regulatory text. EPA did not finalize a regulatory
175 definition of “surface coating.” Rather, EPA is providing additional clarity on what is meant by a “surface
176 coating” in this guidance document.

177 **EXAMPLE:** If Chemical A is used in furniture varnish that is applied during the production of a piece of
178 furniture at a furniture manufacturer, once Chemical A is applied to the furniture, Chemical A is
179 considered a surface coating that is part of an article. If a varnish containing Chemical A is purchased at a
180 hardware store, for use by a consumer to build or refinish a piece of furniture, the container of varnish
181 containing Chemical A could be used as a surface coating but not be considered as part of an article.

182 **What constitutes a surface coating subject to the SNUR?**

183 In the context of the LCPFAC SNUR, EPA considers any LCPFAC (from the list in Table 1 or PFOA and its salts) that
184 meets one of the following two criteria to be a surface coating covered by the SNUR:

- 185 1. coating on any surface of an article that is in direct contact with humans or the environment during
186 the article’s normal use or reuse, whether the coating is oriented towards the interior or exterior of
187 the article;
- 188 2. coating on any internal component, even if facing the interior of the article, if that component is in
189 contact with humans or the environment during the article’s normal use or reuse.
190

191 **EXAMPLE:** An importer of luggage is working with a foreign manufacturer to develop a new product line
192 of fabric luggage. In order to protect the luggage against water and stains, the importer would like a
193 surface coating protectant applied to the luggage. The foreign manufacturer has three coatings they can
194 use: One with Chemical A, another with Chemical B, and another with Chemical C. All three chemicals
195 are LCPFAC chemical substances, so the importer must ensure that he complies with the final LCPFAC
196 SNUR. While all three chemical substances are LCPFAC chemical substances, they are not all subject to
197 the same requirements of the final SNUR.

198 Chemical A is CASRN 17741-60-5, which is listed in Table 1 - LCPFAC Chemical Substances Subject to
199 Reporting After December 31, 2015. Because it is listed in Table 1 and there is no ongoing use for
200 Chemical A under 40 CFR 721.10536(b)(5), Chemical A is subject to the LCPFAC SNUR when imported in
201 an article as part of a surface coating. If the importer wishes to import luggage containing Chemical A as
202 a surface coating, they must first submit a SNUN at least 90 days before they intend to commence
203 import (see Section V. How to Comply).

204 Chemical B is CASRN 27905-45-9, which is also listed in Table 1 - LCPFAC Chemical Substances Subject to
205 Reporting After December 31, 2015. Chemical B, however, has an ongoing use pursuant to 40 CFR
206 721.10536(b)(5)(ii) for use “as a coating or component of a hydrophobic and/or oleophobic coating or
207 barrier applied to manufactured articles or component of articles using an energy source or plasma
208 deposition methods, which include a pulse deposition mode. Examples of such articles include:
209 electronic devices and components thereof, medical consumables and bio-consumables, filtration
210 devices and filtration materials, clothing, footwear and *fabrics*.” Because the use of Chemical B as a
211 coating on fabric is recognized as an ongoing use in the final SNUR, this use of Chemical B is not a
212 significant new use subject to the final SNUR. The foreign manufacturer may use CASRN 27905-45-9 as a
213 surface coating on the fabric luggage without the importer needing to submit a SNUN.

214 Chemical C is CASRN XXXX-XX-X (a hypothetical chemical for this example), which is a LCPFAC chemical
215 substance subject to the final SNUR pursuant to 40 CFR 721.10536(b)(1). Chemical C is not listed in Table
216 1 - LCPFAC Chemical Substances Subject to Reporting After December 31, 2015 and it is not PFOA or a
217 PFOA salt. Only LCPFAC chemical substances that are listed in Table 1 or that are PFOA and its salts are
218 subject to the notification requirements of 40 CFR 721.25 when imported as part of a surface coating of
219 an article (see 40 CFR 721.10536(c)(1)). As such, when imported as part of a surface coating of an article,
220 Chemical C is not subject to the rule and may be used by the foreign manufacturer as a surface coating
221 on the fabric luggage and then imported into the US without the importer needing to submit a SNUN.
222 Chemical C, however, may be subject to the SNUR if manufactured, imported, or processed for another
223 use.

224 **Are surface coatings that have cured or undergone chemical reaction after** 225 **application subject to the SNUR?**

226 Yes. Articles that have surface coatings that contain certain LCPFAC chemical substances that have been cured or
227 undergone chemical reaction after being applied to an article are subject to the SNUR.

228 **Are complex durable goods subject to the SNUR?**

229 Yes. The term “complex durable good” is defined in TSCA section 6(c)(2)(D). Statutory exemptions for
230 replacement parts for complex durable goods may be granted pursuant to TSCA section 6(c)(2)(D) in some cases,
231 but only in TSCA section 6(a) risk management rules. Designation as a “complex durable good” under TSCA
232 section 6 does not affect whether a use is or is not a significant new use under the SNUR. EPA acknowledges that
233 imported articles may be comprised of multiple components and have a complex supply chain, which may
234 present greater demands on some importers to ensure that if an article contains certain LCPFAC chemical
235 substances in surface coatings, a SNUN is submitted to EPA least 90 days before engaging in import.

236 **If an article contains an LCPFAC chemical substance as a surface coating, but** 237 **the LCPFAC chemical substance is believed to not be released, is the article** 238 **subject to the SNUR?**

239 Yes. In the final SNUR, EPA affirmatively found that under TSCA section 5(a)(5) that the notification for import is
240 justified due to the reasonable potential for exposure to certain LCPFAC chemical substances when part of
241 surface coatings on articles. The article is subject to the SNUR regardless of whether or not the *importer* believes

242 that no release or exposure will result from an imported article containing a subject LCPFAC chemical substance
243 as part of a surface coating, unless that given use is listed as an ongoing use at 40 CFR 721.10536(b)(5). In order
244 to import an article containing certain LCPFAC chemical substances in surface coatings, a SNUN needs to be
245 submitted to EPA at least 90 days before importation occurs. The submission of a SNUN allows EPA to evaluate
246 potential uses (before those uses would begin) for any hazards, exposures, and risks that might exist. See
247 Section V. How to Comply for information on submitting a SNUN.

248 **Are impurities in surface coatings subject to the SNUR?**

249 No. To the extent the chemical substance subject to the SNUR is only “unintentionally present” at the point of
250 foreign manufacture, it is exempt from reporting by the importer as an imported impurity (see 40 CFR
251 721.45(d)). As such, importers are not required to submit a SNUN for a substance based simply on that
252 substance's presence as an impurity (i.e., a chemical substance is unintentionally present with another chemical
253 substance (40 CFR 720.3(m)). If a subject LCPFAC chemical substance is only present as an impurity in a surface
254 coating as part of an article, then it is not subject to the SNUR.

255 **Are processors of articles exempted or not covered?**

256 Yes. Processors of articles are not subject to the SNUR. EPA is retaining the exemption at 40 CFR 721.45(f) for
257 persons who process chemical substances as part of articles because existing stocks of articles still contain
258 LCPFAC or perfluoroalkyl sulfonate chemical substances. Because the processing of articles containing LCPFAC or
259 perfluoroalkyl sulfonate chemical substances is ongoing, it cannot be subject to a SNUR. EPA considers recycling
260 to be a form of processing (85 FR 45109, July 27, 2020).

261

262 **IV. Who Must Comply?**

263 **How can I tell if I am subject to the SNUR?**

264 As an importer of articles, you are subject to the SNUR if you import, for a “significant new use,” articles
265 containing a subset of LCPFAC chemical substances as part of a surface coating. The subset of LCPFAC chemical
266 substances for which EPA lifted the articles exemption includes those listed in Table 1 of this guidance document
267 and PFOA or its salts (see examples in Table 2).

268 The use of the subject LCPFAC chemical substances as part of food packaging or medical devices is not subject to
269 the rule. TSCA section 3(2)(B) excludes any food, food additive, drug, cosmetic, or device regulated under the
270 Federal Food, Drug, and Cosmetic Act from the definition of a chemical substance under TSCA. The Food and
271 Drug Administration (FDA), however, has separately issued restrictions on the use of PFAS chemical substances
272 in FDA regulated uses. Prior to import, importers should ensure that they are in compliance with all federal and
273 state regulations regarding PFAS chemical substances.

274 In the final SNUR, published July 27, 2020, EPA also finalized amendments requiring persons to notify EPA at
275 least 90 days before commencing: the manufacturing (including importing) or processing of a subset of LCPFAC
276 chemical substances for any use that was not ongoing after December 31, 2015; the manufacturing (including
277 importing) or processing of all other LCPFAC chemicals substances for which there were no ongoing uses as of

278 January 21, 2015 (the date of the original 2015 proposal); and the import of perfluoroalkyl sulfonate chemical
279 substances as part of carpets. These additional amendments, however, are not the subject of this compliance
280 guide.

281 **V. How to Comply**

282 **What should I do to comply?**

283 Under section 5(a) of TSCA and 40 CFR part 721, if EPA promulgates a SNUR, then a manufacturer (including
284 importer) or processor wishing to engage in a designated significant new use must submit a SNUN to EPA at
285 least 90 days before engaging in the new use. This notification provides EPA the opportunity to evaluate and
286 make a determination on the new use and, if necessary, take action to prohibit or limit the activity if EPA finds
287 that the significant new use presents unreasonable risk of injury to health or the environment.

288 EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what data may
289 be useful in evaluating a significant new use. EPA can also help the regulated community confirm whether or not
290 they are subject to the rule and if a SNUN is required. As part of this optional pre-notice consultation, EPA would
291 discuss specific information it believes may be useful in evaluating a significant new use.

292 Submitting a SNUN that fails to include sufficient information to permit a reasoned evaluation may increase the
293 likelihood that EPA will either respond with a determination that the information available to the Agency is
294 insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use
295 or, alternatively, that in the absence of sufficient information, the manufacturing (including importing),
296 processing, distribution in commerce, use, or disposal of the chemical substance may present an unreasonable
297 risk of injury to health or the environment.

298 SNUN submitters should be aware that EPA will be better able to evaluate SNUNs and define the terms of any
299 potentially necessary controls if the submitter provides detailed information on human exposure and
300 environmental releases that may result from the significant new uses of the chemical substance.

301 SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the
302 Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. For more information
303 on submitting a SNUN and the e-PMN software, visit: [https://www.epa.gov/reviewing-new-chemicals-under-](https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/filing-pre-manufacture-notice-epa)
304 [toxic-substances-control-act-tsca/filing-pre-manufacture-notice-epa](https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/filing-pre-manufacture-notice-epa). Additionally, you can talk to a specialist via
305 the TSCA Hotline by e-mail at tsca-hotline@epa.gov or by telephone, (202) 554-1404.

306 **Import Certification and Export Notification**

307 The final LCPFAC SNUR does not require TSCA section 13 import certification for the subject chemical substances
308 when part of articles (i.e., not as part of a surface coating on articles). Considering that the use of these
309 chemicals in articles covered by this SNUR are no longer ongoing, EPA determined that it is not necessary to
310 include TSCA section 13 import requirements in the SNUR. This is consistent with EPA's past practice of making
311 the exemption at 40 CFR 721.45(f) inapplicable without also requiring import certification or export notification
312 for these chemical substances as part of articles (40 CFR 721.2800; 40 CFR 721.10068). With or without an
313 import certification requirement, it is the importer that is “responsible for [e]nsuring that chemical importation

314 complies with TSCA just as domestic manufacturers are responsible for [e]nsuring that chemical manufacture
315 complies with TSCA” (40 CFR 707.20(b)(1)).

316 Under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D, exporters must notify
317 EPA if they export or intend to export a chemical substance or mixture, including as part of an article, for which,
318 among other things, a rule has been proposed or promulgated under TSCA section 5. Pursuant to these export
319 notification requirements, persons exporting a substance that is the subject of a SNUR must submit a one-time
320 notice to EPA each calendar year for the first export or intended export to a particular country.

321 **Compliance Date**

322 The final LCPFAC SNUR, which lifts the articles exemption for a subset of LCPFAC chemical substances as part of a
323 surface coating on articles, is effective September 25, 2020. The import of certain LCPFAC chemical substances as
324 part of a surface coating on an article are prohibited from commencing without submission of a SNUN and
325 subsequent approval by EPA. This final rule requires persons to notify EPA at least 90 days before commencing
326 the import of these chemical substances for the significant new uses described in this guidance. The final SNUR
327 precludes the commencement of such importing until EPA has conducted a review of the notice, made an
328 appropriate determination on the notice, and taken such actions as are required in association with that
329 determination.

330 **What happens if the Agency discovers a violation?**

331 In accordance with section 15 of TSCA, it is unlawful to fail or refuse to comply with any requirement under TSCA,
332 or with any rule promulgated under TSCA. Therefore, any failure to comply with the final rule would be a violation
333 of section 15 of TSCA. In addition, under section 15 of TSCA, it is unlawful for any person to: (1) Fail or refuse to
334 establish or maintain records as required by the final rule or other regulations promulgated under this chapter;
335 (2) fail or refuse to permit access to or copying of records, as required by TSCA; or (3) fail or refuse to permit entry
336 or inspection as required by section 11 of TSCA.

337 Violators of the final LCPFAC SNUR may be subject to both civil and criminal liability. Under the penalty provision
338 of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty for each violation.
339 Each day in violation of the final rule could constitute a separate violation. Knowing or willful violations could lead
340 to the imposition of criminal penalties for each day of violation and imprisonment. In addition, other remedies
341 are available to EPA under TSCA.

342 **VI. For More Information**

343 Additional information is available at [https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-and-polyfluoroalkyl-substances-pfas)
344 [management-and-polyfluoroalkyl-substances-pfas](https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/risk-management-and-polyfluoroalkyl-substances-pfas). The regulations can be found in the Federal Register ((85 FR
345 45109, July 27, 2020) at <https://www.regulations.gov/document?D=EPA-HQ-OPPT-2013-0225-0232> or at docket
346 EPA-HQ-OPPT-2013-0225 at <https://www.regulations.gov>.

347 **Where can I go if I have questions or need further assistance?**

348 Please contact EPA's TSCA Hotline with questions by telephone at (202) 554-1404, by fax at (585) 232-3111 or by
349 email at tsca-hotline@epa.gov.

350 **Appendix**

351 **Acronym List**

352	CASRN	Chemical Abstracts Service Registry Number
353	CFR	Code of Federal Regulations
354	EPA	U.S. Environmental Protection Agency
355	FR	Federal Register
356	LCPFAC	long-chain perfluoroalkyl carboxylate
357	NAICS	North American Industrial Classification System
358	PFAS	perfluoroalkyl and polyfluoroalkyl substances
359	SNUN	Significant New Use Notice
360	SNUR	Significant New Use Rule
361	TSCA	Toxic Substances Control Act