



Office of Inspector General U.S. Environmental Protection Agency

At a Glance

22-E-0052
July 7, 2022

Why We Did This Evaluation

The U.S. Environmental Protection Agency's Office of Inspector General conducted this evaluation to determine the extent to which the EPA followed applicable policies, procedures, and guidance for the changes made to the Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule between the EPA administrator's signing of the final rule on June 22, 2020, and the publication of the final rule in the *Federal Register* on July 27, 2020. We initiated this evaluation based on a congressional request.

The substances in question are types of per- and polyfluoroalkyl substances, which are manufactured chemicals widely used in industry and consumer products. Some of these substances break down very slowly; build up in people, animals, and the environment; and may lead to adverse health outcomes. Significant New Use Rules require that the EPA be notified before regulated chemical substances are used in new ways that might cause environmental or human health concerns.

This evaluation supports an EPA mission-related effort:

- *Ensuring the safety of chemicals.*

This evaluation addresses a top EPA [management challenge](#):

- *Ensuring safe use of chemicals.*

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The EPA Was Not Transparent About Changes Made to a Long-Chain PFAS Rule After Administrator Signature

What We Found

The EPA did not follow all applicable policies, procedures, and guidance when making changes to the Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances, or LCPFAC, Significant New Use Rule after the administrator signed it and before it was published in the *Federal Register*. Specifically:

Because the EPA did not follow docketing procedures, the public was not notified of the changes to the final LCPFAC Significant New Use Rule.

- Although the Agency identified changes made to the Significant New Use Rule in a postsignature change memorandum, which was signed by the administrator, as required by the EPA's *Changes to Rule Documents Prepared for the Administrator's Signature* procedures, the EPA did not docket that memorandum, as stipulated in the EPA's *Creating and Managing Dockets: Frequently Asked Questions for EPA Action Developers* guidance.
- Because the request for changes was communicated via telephone, we could not identify the origin of the requested changes and could not determine whether the EPA complied with the transparency provisions of Executive Order 12866, *Regulatory Planning and Review*.

By not following all docketing procedures, the EPA did not meet transparency expectations and risked compromising the public's trust in the rulemaking process. However, the Agency followed the Office of the Federal Register's *Document Drafting Handbook* guidance for requesting changes to the final rule.

Recommendations and Planned Agency Corrective Actions

We recommend that the assistant administrator for Chemical Safety and Pollution Prevention update the LCPFAC Significant New Use Rule docket by posting the postsignature change memorandum that outlines the changes made to the final rule after the administrator signed it but before it was published in the *Federal Register*. We also make two recommendations to the associate administrator for Policy, which include updating the applicable policies, procedures, and guidance regarding making changes to a regulatory action after it is submitted to the Office of Information and Regulatory Affairs for review and before it is published in the *Federal Register*. The Agency agreed with our first two recommendations and provided acceptable corrective actions. The first recommendation is completed, and the second is resolved with corrective actions pending. The Agency disagreed with our third recommendation, and it remains unresolved.