

October 19, 2023

Dr. Michal Freedhoff, Assistant Administrator
Office of Chemical Safety and Pollution Prevention
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Risk assessment of Inhance fluorination process

Dear Dr. Freedhoff:

The Environmental Protection Network (EPN) harnesses the expertise of more than 600 former EPA career and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

We are writing today to urge you to complete, as soon as possible, EPA's assessment of whether the formation of long-chain PFAS during the fluorination of plastic containers by Inhance Technologies (Inhance) poses an unreasonable risk to human health and the environment. If an unreasonable risk finding is determined, we urge the agency to use its Toxic Substances Control Act (TSCA) authority to prohibit the Inhance fluorination process. Lastly, EPN recommends that EPA immediately initiate a process to decide if pesticides currently stored in these containers need to be recalled.

Inhance has been in violation of EPA's 2020 Significant New Use Rule (SNUR) for long-chain PFAS for three years and tens of millions of containers with significant levels of PFOA and other harmful PFAS are now being unlawfully distributed across numerous sectors of the economy with no notice to exposed workers and consumers. The public should be protected from these risks. While Inhance claims that their fluorinated containers should be considered essential to meet transportation safety requirements, there are other non-PFAS generating processes that are commercially available to strengthen plastics and meet these requirements.

In 2020, EPA required Clarke Mosquito to recall the Inhance-fluorinated containers of Anvil 10+10 because the insecticide was contaminated with 9 long-chain PFAS and 4 short-chain PFAS chemicals. In January 2021, EPA issued a subpoena to Inhance, and the company provided extensive information about its fluorination process and its business. Since then, EPA has issued a Notice of Violation (NOV) under TSCA and urged Inhance to cease forming PFAS during fluorination in violation of the 2020 long-chain PFAS SNUR. Two rounds of testing conducted by EPA prove that 9 long-chain and 4 short-chain PFAS migrate from the walls of fluorinated containers into their contents, with the levels increasing the longer the products are stored and if they are heated. Testing by independent laboratories has confirmed these findings.

After two years of disputing whether PFAS are formed during fluorination and contesting the applicability of the SNUR, Inhance finally submitted Significant New Use Notifications (SNUNs) to EPA in December

2022 and March 2023. It is critical for EPA to conduct a rigorous, comprehensive risk assessment of all the uses of Inhance fluorinated containers given the serious health concerns of the long-chain PFAS they contain and the many pathways for worker and consumer exposure and environmental release. The assessment should include risks to workers and fence-line communities at Inhance facilities where containers are fluorinated, at the many facilities where these containers are processed and used, and at plastic recycling facilities where discarded containers are reintroduced into the manufacturing stream. The risks to consumers from the numerous household products packaged in fluorinated containers must also be fully assessed. EPA should ensure that all the data provided by Inhance are made publicly available, consistent with the requirements of TSCA section 14(b)(2). EPA should evaluate the combined toxicity of all the PFAS to which people are co-exposed, including both long- and short-chain PFAS.

We strongly recommend that EPA should use its full authority under section 5(f) of TSCA to prohibit the Inhance fluorination process without delay if EPA determines that the presence of PFAS in Inhance fluorinated containers presents an unreasonable risk to health and the environment. EPN believes that the evidence available to EPA fully supports such a determination. In addition to protecting the public from TSCA-regulated products stored in fluorinated containers, EPN recommends that EPA immediately initiate a process to decide if pesticides currently stored in these containers need to be recalled.

Thank you in advance for considering these recommendations. We look forward to continued engagement to protect public health and the environment from the harmful impacts of PFAS.

Sincerely,



Michelle Roos
Executive Director
Environmental Protection Network

cc: Shari Barash, Acting Director, New Chemicals Division, Office of Pollution Prevention and Toxics (OPPT)
Radhika Fox, Assistant Administrator, Office of Water (OW)
Christopher Frey, Assistant Administrator, Office of Research and Development
Joseph Goffman, Assistant Administrator, Office of Air and Radiation
Mark Hartman, Deputy Director, OPPT
Denise Keehner, Director, OPPT
Matt Klasen, PFAS Council Manager, OW
Janet McCabe, Deputy Administrator
Clifford Villa, Assistant Administrator, Office of Land and Emergency Management