

Memorandum

Date: October 13, 2022

To: Sean Fischer, Ph.D., Division of Food Contact Substances (HFS-275)

Through: Mariellen Pfeil, Lead Biologist, Environmental Team, Division of Science and Technology (HFS-255)

Mariellen Pfeil -S Digitally signed by Mariellen Pfeil -S
Date: 2022.10.13 12:31:11 -04'00'

From: Antonetta Thompson-Wood, Physical Scientist, Environmental Team, Division of Science and Technology (HFS-255)

Subject: Finding of No Significant Impact (FONSI) for Food Contact Substance Notification (FCN) 2251: ethylene/octene copolymers containing up to 30 weight percent polymer units derived from 1-octene (CAS Reg. No. 26221-73-8)

Notifier: NOVA Chemicals Corporation

Attached is the FONSI for FCN 2251, which is for the use of ethylene/octene copolymers containing up to 30 weight percent polymer units derived from 1-octene (CAS Reg. No. 26221-73-8) as articles or components of articles used in contact with all types of food. This FONSI explains how the Food and Drug Administration (FDA) has met the requirements under the National Environmental Policy Act (NEPA) for this FCN.

After this FCN becomes effective, copies of this FONSI, and the notifier's environmental assessment (EA), dated September 26, 2022, may be made available to the public. We will post digital transcriptions of the FONSI, and the EA on the agency's public website.

Please let us know if there is any change in the identity or use of the food-contact substance.

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Attachment: Finding of No Significant Impact (FONSI)

FINDING OF NO SIGNIFICANT IMPACT

Food Contact Substance Notification (FCN) 2251, submitted by NOVA Chemicals Corporation for the use of ethylene/octene copolymers containing up to 30 weight percent polymer units derived from 1-octene (CAS Reg. No. 26221-73-8) as articles or components of articles used in contact with all types of food. The FCS may be used in contact with all food types under Conditions of Use A through H, as described in Tables 1 and 2. Adjuvant substances permitted for use in olefin copolymers complying with 21 CFR 177.1520(c), items 3.1 and 3.2 may be used in the subject copolymers, provided that the limitations on the use of the adjuvant substances are met. The FCS is not for use in contact with infant formula and human milk. Such uses were not included as part of the intended use of the substance in the FCN.

The Office of Food Additive Safety has determined that allowing this notification to become effective will not significantly affect the quality of the human environment and, therefore, an environmental impact statement (EIS) will not be prepared. This finding is based on information submitted by the notifier in an environmental assessment (EA), dated September 26, 2022. The EA was prepared in accordance with 21 CFR 25.40. The EA is incorporated by reference in this Finding of No Significant Impact (FONSI) and is briefly summarized below.

The FCS is intended for use as articles or components of articles used in contact with all types of food. Finished food-contact articles containing the FCS will be utilized in patterns corresponding to the national population density and will be widely distributed across the country. Disposal, recycling, and combustion rates of food contact articles manufactured with the FCS will correspond with The United States Environmental Protection Agency (US EPA) Advancing Sustainable Materials Management: Facts Sheet, Assessing Trends in Materials Generation and Management in the United States, November 2020¹. Post-consumer disposal of food-contact articles containing the FCS will be to landfills and municipal waste combustors (MWC) complying with 40 CFR Parts 258 and 60, respectively. No significant impact on the concentrations of and exposures to any substances in air, water, or soil are anticipated. Due to EPA's regulations governing landfills at 40 CFR Part 258, leaching into the environment by food-contact articles manufactured with the FCS is not anticipated. Further, because of the regulations at 40 CFR Part 60, and others, no significant impacts are expected from incineration of the FCS at MWCs. Thus, the use of the FCS as proposed is not expected to result in significant environmental impacts.

The EA also considered the impact of greenhouse gas (GHG) emissions. Based on information provided in a confidential attachment to the EA, the total estimated GHG emissions resulting from the combustion of food-contact articles manufactured with the FCS in this notification is below 25,000 metric tons CO₂ equivalent, the US EPA threshold for mandatory reporting of GHG emissions (40 CFR 98.2). Therefore, no significant environmental impacts are anticipated.

Manufacture of the FCS, its use in finished food-contact articles is not expected to result in a net increase in the use of energy and resources, because the FCS is intended to be used in food-contact articles in place of similar polymers already in the market for use in food-contact applications. Therefore, no net increase in the use of energy and resources from the use and disposal of food-contact articles manufactured with the FCS is expected. No mitigation measures are needed since no significant adverse environmental effects are expected from use and disposal of food-contact articles manufactured with the FCS, nor do we expect significant environmental impacts, which would necessitate alternative actions to those proposed in this FCN. The alternative to not allowing the FCN to become effective would be continued use of materials that the FCS would otherwise replace; therefore, this action would have no significant environmental impact.

¹ https://www.epa.gov/sites/production/files/2020-11/documents/2018_ff_fact_sheet.pdf

As evaluated in the EA, the proposed use of the FCS as described in FCN 2251 will not significantly affect the human environment; therefore, an EIS will not be prepared.

Prepared by **Antonetta
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