



EPN Comments on PFAS Data Reporting and Recordkeeping Under TSCA; Revision to Regulation

Docket No.: EPA-HQ-OPPT-2020-0549

December 29, 2025

The [Environmental Protection Network](https://www.epa.gov/system/files/documents/2025-05/tsca-sec-21-petition-reporting-and-recordkeeping-requirements-for-certain-per-and-polyfluoroalkyl-substances-pfas-may-2025_0.pdf) (EPN) harnesses the expertise of more than 700 former Environmental Protection Agency (EPA) career staff 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.

In October 2023, EPA finalized reporting and recordkeeping requirements for per- and polyfluoroalkyl substances (PFAS) as required by the addition of TSCA section 8(a)(7), made under the National Defense Authorization Act of fiscal year 2020 (FY2020 NDAA). These requirements are for persons that manufacture, import, or have manufactured or imported PFAS and mixtures containing PFAS in any year since January 1, 2011, to report certain information to EPA related to chemical identity, categories of use, volumes manufactured and processed, byproducts, environmental and health effects, worker exposure, and disposal, as outlined in section 8(a)(2). In addition to fulfilling a TSCA mandate, this reporting rule enables EPA to support its mission in the PFAS Action Plan to identify and better understand these chemicals and to increase scientific research on them, support assessments of new and existing chemicals under TSCA, and environmental protection mandates beyond the TSCA program.

In the current proposal, EPA proposes to provide reporting exemptions to the following activities: research and development, small manufacturers, article importers, and activities where PFAS is produced as byproducts. The agency also proposes to set a *de minimis* concentration threshold for manufacture of PFAS and mixtures containing PFAS. All of these exemptions had been requested by the Small Business Advocacy Review (SBAR) panel convened in 2022 during the original rulemaking process for the 2023 reporting rule and were reiterated in a petition submitted to the agency by a coalition of chemical companies in February 2025.¹

EPN believes that these proposed exemptions will limit the effectiveness of reporting and are contrary to the comprehensive scope of section 8(a)(7). The FY2020 NDAA instructed EPA to require reporting of all the information categories listed in section 8(a)(2). We do not believe that EPA has discretion to select some of these categories for reporting and exempt others. Nor do we think Congress gave EPA any latitude to select which entities would be required to report. The FY2020 NDAA specifically directed EPA to promulgate a rule “requiring *each person* who has manufactured a [PFAS] in any year since January 1, 2011,” to file reports (emphasis added). The absolute nature of this requirement is clear. Thus, the specific PFAS produced or imported, the type of manufacturing or import activity, the manufacturing or import volumes involved, and other factors are all presumably immaterial to the scope of reporting.

The proposed exemptions are similar to those included in section TSCA 8(a)(1) (the Chemical Data Reporting (CDR) rule). However, EPA has discretion in framing reporting requirements under section

¹ https://www.epa.gov/system/files/documents/2025-05/tsca-sec-21-petition-reporting-and-recordkeeping-requirements-for-certain-per-and-polyfluoroalkyl-substances-pfas-may-2025_0.pdf

8(a)(1) that is lacking in section 8(a)(7). For example, section 8(a)(7) contains no exemption for small business, articles, or small quantities of PFAS. Moreover, unlike the CDR rule, the goal of the PFAS reporting rule is to inform the in-depth cross-media risk evaluations and regulatory initiatives required to address a discrete chemical class of high concern to the public, Congress, and state and federal agencies. The proposed exemptions are not only barred by the plain language of section 8(a)(7) but would also undermine EPA's ability to use its authorities effectively to address these high-concern chemicals.

Exempt All Small Businesses

In the FY2020 NDAA, Congress directed EPA to promulgate the TSCA section 8(a)(7) reporting rule because both the CDR and the Toxic Release Inventory (TRI) require so few entities to report on their production or importation of PFAS. As a result, EPA and the states are unaware of the sources and uses of most of the PFAS in the U.S. and are unable to protect the public and the environment from the risks posed by those PFAS.

EPN opposes the proposed exemption of all small businesses from this rule because this would likely result in very little of the critically needed data being reported to EPA. EPA had previously estimated that 218 of the total 234 manufacturing firms (93%) would not report and 127,576 of the total 131,157 article importers (97%) would not report if small businesses were to be exempted from reporting. EPA and the states cannot afford the loss of critical data when the risks to public health and the environment are so great.

The information generated by this rule is needed to understand the full lifecycle of PFAS. All manufacturers should be required to report because all of them release PFAS to the environment through wastewater and stormwater discharges, fugitive and stack emissions, accidents and spills, disposal of PFAS-containing or PFAS-treated materials, and the general wear and tear of consumer products. All of the article importers should also be required to report because of environmental releases during use and disposal of these PFAS-containing articles.

***De Minimis* Threshold**

EPA proposes to apply a *de minimis* threshold reporting exemption of 0.1%, below which PFAS in mixtures or articles below 0.1%, regardless of total production volume of the mixture or article, would be exempt from reporting. We see no basis in section 8(a)(7) for such an exemption, and a reporting threshold would conflict with congressional intent to generate comprehensive information about PFAS use and exposure beyond that already provided in CDR and TRI. In addition, providing any reporting threshold will have little effect on per-firm costs because the majority of costs stem from rule familiarization and article compliance determinations. Firms will still have to perform these tasks to determine if they meet the reporting threshold.

Exempt Imported Articles, Byproducts, Etc.

EPA proposes implementing the same reporting exemptions as the CDR rule for imported articles, research and development substances, byproducts, impurities, recyclers, and intermediates. EPN opposes this recommendation for two reasons. First, these exemptions conflict with the broad scope of reporting under section 8(a)(7). Second, they would eliminate EPA's only mechanism to get information on these types of PFAS. It is critical that EPA understand the types of manufacturing processes and reactions that can form PFAS or transform certain PFAS into different chemicals in order to characterize exposures and risks for PFAS. Byproducts are not well understood but are expected to occur during manufacturing, even when the manufacturing process does not directly use PFAS. Certain waste management activities such as incineration

may manufacture PFAS as a coincidental byproduct, and EPA needs the reports required by this rule to document that formation. In addition, byproducts may be of great concern for environmental and public health. For example, some long-chain PFAS are byproducts of the manufacturing process for fluorinated polyolefins, and GenX chemicals can be produced as a byproduct of certain manufacturing processes. Historical PFAS information is important since these chemicals are resistant to environmental and metabolic degradation, and continual releases will result in accumulating concentrations in the environment, humans, and wildlife.

Conclusion

EPN does not support these proposed exemptions and urges the agency to abandon making changes to this important reporting rule.