American Coatings ASSOCIATION℠

December 29, 2025

Lee Zeldin
Administrator, EPA
Chemical Information, Prioritization, and Toxics Release Inventory Division (7406M)
Office of Pollution Prevention and Toxics, Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460–0001

Re: EPA Docket No. EPA-HQ-OPPT-2020-0549-0311

TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances; Proposed Rule, 86 Fed. Reg. 33926 (Jun. 28, 2021)

Submitted via www.regulations.gov

Dear Administrator Zeldin,

The American Coatings Association ("ACA")[1] appreciates the opportunity to comment on the proposed TSCA Section 8(a)(7) reporting and recordkeeping requirements for perfluoroalkyl and polyfluoroalkyl substances. The Association's membership represents 90% of the U.S. paint and coatings industry, including chemical manufacturers and importers subject to the proposed rule. ACA appreciates EPA's willingness to interact with stakeholders during this process. We are optimistic that through continued involvement with the public and stakeholder community, EPA will

[1] ACA is a voluntary, non-profit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services. ACA's membership represents over 90 percent of the total domestic production of paints and coatings in the country.

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successfully implement a strong, risk-based approach to managing risk posed by PFAS chemicals.

PFAS reporting presents unique challenges to the formulated products industry that vary from concerns of large-scale domestic chemical manufacturers. ACA has been engaged with related advocacy at all stages of rule development. Due to the importance of this rule, ACA served as a Small Entity Representative on the SBAR (Small Business Advocacy Review) panel convened for this rule. The report of the SBAR panel addresses many of the issues raised in EPA's current proposal. ACA requests EPA to consider recommendations of the SBAR panel in the current comment period, as included in the final SBAR report.

As further described below, our industry often imports raw materials that may contain a PFAS chemical, imported to supplement domestic supply. Domestic manufacturers will provide EPA with more accurate data sets for such chemicals than chemical importers. ACA provides several suggestions designed to streamline data submission considering chemical import and domestic manufacture. These include:

- aligning reporting thresholds with OSHA Hazard Communication requirements,
- modifying the due diligence standard,
- establishing an additional volume-based threshold,
- clarifying scope of the exemption for articles with coatings,
- restricting the scope of reportable PFAS,
- modifying use of OECD Harmonized Templates and robust study summaries, and
- modifying EPA's cost analysis.

ACA commends EPA's willingness to reevaluate this rule and propose changes to advance a more efficient reporting system. In general, ACA supports the proposed exemptions for a *de minimis*, by-products, impurities, non-isolated intermediates, articles and small amounts for R&D purposes.

Please consider the following suggestions:

I. Unique challenges to importers of mixtures emphasize the need for a modified rule focusing reporting on upstream domestic manufacturers.

ACA appreciates EPA's interest in evaluating reporting requirements and proposing exemptions to the final rule. ACA supports EPA's proposed exemptions, as explained below. These exemptions, however, do not completely address unique challenges faced by the downstream chemical user community importing raw materials as complex mixtures.

ACA requests EPA consider the following challenges to chemical importers:

- Companies often import a chemical with a confidential chemical identity, so the foreign supplier will not disclose PFAS ingredients or overall chemical identity to the domestic importer.
- Companies import mixtures containing PFAS that are not disclosed due to lack of hazard classification of PFAS.
- Companies import mixtures containing PFAS in the range of 0.1-1%, without a health hazard classification requiring disclosure at 0.1%. The mixture may be classified under a hazard class with a threshold of 1%, requiring disclosure. The PFAS is not disclosed due to concentration at levels in the range of 0.1-1%.

These situations result in inconsistencies in SDS disclosures of PFAS, requiring significant due diligence to seek information from a foreign supplier.

Downstream formulators often face significant barriers when trying to obtain information about small, but reportable, amounts in mixtures from upstream actors. Because of complexities in the supply chain, suppliers often do not know this information or simply do not want to disclose information about small, reportable amounts to a downstream importer, even when known. The current social climate and public perception regarding PFAS creates an environment prone to potentially frivolous litigation. In addition to technical barriers to chemical identification, companies are concerned that any disclosures made to downstream users then submitted to EPA can be disclosed and misinterpreted resulting in litigation.

***a) Suggested restrictions on reporting from importers*.**

EPA can take measures to obtain responsive information. Recognizing that reporting from chemical importers in the downstream user community will produce redundant and incomplete information, EPA can modify the rule so domestic manufacturers provide all or most of the information requested in 40 CFR 705.15. ACA suggests creating a tiered data requirement where manufacturers would submit all responsive information and importers would identify any imported chemicals from a restricted list of PFAS. Under the current rule, submission of data by importers will be incomplete and largely based on conjecture, while placing a significant compliance burden on importers. The current proposed changes do not adequately address these redundancies.

The most efficient approach to gathering accurate information would be to remove importers from the TSCA 8(a)(7) reporting requirement. ACA recognizes that EPA may not be authorized to entirely remove importers from the reporting requirement since TSCA's definition of *manufacturer* includes importers. Further, TSCA 8(a)(7) places the reporting obligation *on each person who has manufactured a chemical substance* that is a PFAS. EPA, however, is authorized to modify the reporting requirement as

appropriate. EPA is not only authorized but required to balance data submission requirements with compliance burden, economic practicality and data quality, as stipulated in TSCA 8(a)(5).[2] These considerations mitigate against duplicative and incomplete reports from importers of complex mixtures.

ACA recommends restricting the requirements for importers to identification of imported chemicals listed on the TRI PFAS reporting list. This list covers most, if not all, significant PFAS chemicals currently in commerce. In the alternative, if EPA desires full reports from importers, EPA should limit those reports to the list of PFAS chemicals subject to TRI reporting. This list includes about 189 PFAS, with new PFAS being added for each reporting period. This list focuses on PFAS currently active in commerce, listed for toxicity, environmental effects and/or because they are covered by a SNUR.

This approach would significantly reduce redundant reporting requirements on importers who would no longer have to undertake costly and complex due diligence in an attempt to identify data sets about legacy chemicals it may have imported in small amounts during the ten-year look-back period. EPA will receive information about these chemicals from large-scale manufacturers, where the information is more readily available. Through this process, if EPA identifies legacy chemicals of interest, EPA could then issue a targeted request for information about import of those chemicals as needed.

b) EPA should issue interpretive guidance of the "known to or reasonably ascertainable by" standard for compliance with this rule.

ACA recommends interpreting the "known to or reasonably ascertainable by" standard of due diligence to eliminate any external inquiries, specify reliance on communication by upstream actors and eliminate requiring submission of information that a company may not have in its possession, but "may be reasonably expected to know."

Under the current rule, EPA limits data collection to information "known to or reasonably ascertainable by" the submitter, a due diligence standard borrowed from CDR reporting and requiring significant hours to assure compliance. The standard requires a detailed review of internal records at all levels of the company, not just management, followed by focused external inquiries when justified. Interpretation of the standard is case specific. Companies may need to inquire with a buyer, supplier or other company where an internal document indicates that another entity has additional

[2] TSCA 8(a)(5) requires:
In carrying out this section, the Administrator shall, to the extent feasible—
(A) not require reporting which is unnecessary or duplicative;
(B) minimize the cost of compliance with this section and the rules issued thereunder on small manufacturers and processors; and
(C) apply any reporting obligations to those persons likely to have information relevant to the effective implementation of this title.

information. Inquiries can also extend to sub-contractors hired for research and development that may have relevant information.

ACA has two related suggestions. First, EPA's interpretive guidance should specify that external inquiries are not required. Under the current interpretation of the standard, issued for CDR reporting, a company may need to conduct targeted external inquiries when internal documentation indicates another company has relevant information. ACA suggests eliminating this requirement, allowing the company to focus on available documentation, provided by the supplier.

Second, ACA suggests that EPA exempt importers from reporting when a domestic supplier is submitting responsive information for the chemical being imported. This is designed to ease the burden of due diligence when a downstream formulator supplements supply of a raw material by importing a chemical while also purchasing it domestically. Here, EPA should further specify the types of communication from a domestic supplier to the downstream importer that meet the importers due diligence. ACA recommends specifying that a written communication from the supplier, including e-mail or a letter, indicating the supplier's compliance with TSCA, adequately indicates supplier's compliance with the PFAS Reporting Rule, so the buyer / supplemental importer would not need to report. ACA recommends specifying that an importer must maintain a domestic suppliers written communication with an invoice specifying relevant CAS numbers or TSCA Accession Numbers.

Exclusion of downstream importers in this manner would not affect data submission. Such importers typically do not have significant reportable information, while expending significant compliance resources. The domestic supplier is more likely to have relevant information and would be reporting it in any case.

Under the *known to or reasonably ascertainable by* standard of due diligence, companies must not only submit requested information in its possession, but also any information that it could reasonably be expected to know. In effect, companies must obtain information not in its possession, if it falls within scope of what other companies normally maintain. To assure compliance, most companies will expend ample time and resources to thoroughly evaluate internal records and make any necessary inquiries. ACA recommends EPA issue interpretive guidance specifying that companies need not evaluate what information it should be reasonably expected to know, for the purpose of complying with the PFAS Reporting Rule. The "reasonably expected to know" inquiry is vague and subject to varying interpretations and discretionary enforcement.

II. ACA strongly supports establishing proposed exemptions while including an additional volume-based exemption.

ACA strongly supports proposed exemptions for a *de minimis* threshold, by products, impurities, non-isolated intermediates, articles and small amounts used for R&D. ACA also suggests a volume-based exemption as a cost-savings measure, considering the burden of reporting far outweighs any speculated benefit. Volume-based thresholds align with the statute and ease the significant burden of reporting for import of raw materials containing small amounts of PFAS, often to supplement domestic supply. These issues are further detailed below.

*a) **EPA should establish a de minimis threshold for reporting that completely aligns with international and OSHA SDS disclosure thresholds.***

Formulators often import chemical mixtures containing small amounts of reportable fluorinated chemicals to supplement domestic supply of a raw material. ACA supports establishing a *de minimis* threshold for this reporting rule based on OSHA SDS disclosure thresholds. ACA supports EPA's proposal for a 0.1% *de minimis*, but would urge EPA to align completely with the OSHA SDS thresholds of 1% for most hazards and 0.1% for carcinogens, reproductive toxins, etc. ACA is not suggesting a universal 1% threshold, but rather aligning percent thresholds with OSHA Hazard Communication threshold values of 1% for certain hazards and 0.1% for certain health hazards. This would significantly reduce the regulatory burden of identifying PFAS in a mixture with 1% to 0.1% but not disclosed on an SDS, since the PFAS lacks relevant health hazard characteristics for disclosure in that range.

EPA should also be aware that relevant information on mixtures in small amounts will be supplied by large-scale manufacturers. This would include reporting of PFAS chemicals in mixtures that are not disclosed on SDS, due to no hazard classification. In this situation, importers have no method of identifying information. Under the current and proposed rules, an importer would have to conduct a thorough review of internal documentation supplemented with inquiries to the supplier, posing a significant burden, to identify information that is readily available to manufacturers of the chemical, but not the importer.

In the current proposal, EPA notes several important considerations that support complete alignment with OSHA SDS and international thresholds for disclosure. EPA notes that companies are unlikely to have records on chemicals below the 0.1% threshold. This also holds true of chemicals below the 1% threshold that lack health hazard characteristics requiring disclosure at 0.1%. In the current proposal, EPA states determining whether a PFAS is below 0.1% is unduly burdensome and often is not technically feasible. Similarly, identifying mixtures containing PFAS at amounts of 0.1%-1% is a significant burden, partially eased with complete alignment with SDS disclosure thresholds.

The OSHA Hazard Communication thresholds are aligned with the international Globally Harmonized System of Classification and Labeling of Chemicals, being the basis for REACH hazard communication also. Aligning reporting with OSHA Hazard Communication thresholds supports alignment with REACH and other international systems, ensuring that EPA receives information commercially available and distributed internationally and domestically on SDS, without compromising health-related information, since the relevant health disclosures for the 0.1% threshold are included.

b) An additional volume-based exemption would not compromise data quality.

An additional volume-based exemption would streamline reporting and enhance the quality of reported information, focusing on reporting from upstream manufacturers better positioned to provide accurate information. ACA strongly recommends an additional volume-based threshold of 2,500 lbs/year aligning with the lower CDR reporting threshold for chemicals subject to regulatory requirements. In the alternative, ACA suggests aligning with the TRI reporting threshold for PFAS of 100 lbs. / year. Alignment with existing reporting requirements is critical due to the significant burden placed on downstream chemical users who import some raw materials. One ACA member notes that even a 10 lb./year threshold provides some relief.

c) ACA supports proposed exemptions for by-products, impurities and non-isolated intermediates.

The proposed exemptions for by-products, impurities and non-isolated intermediates are significant and impactful; ACA strongly supports finalizing these exemptions. These exemptions are critical to maintaining alignment with the CDR rule. Exemptions also prevent an unnecessary and significant burden from identifying chemicals that serve no separate commercial purpose. Exemptions streamline the rule to focus on those chemicals that have been in commerce during the ten-year period, eliminating reporting of chemicals that are most likely not associated with environmental or health effects. As EPA aptly explains,

> *Exemptions would ensure that manufacturers remain focused on reporting PFAS with greater commercial relevance and potential exposure pathways while relieving industry of disproportionately burdensome reporting.*[3]

[3] *PFAS Data Reporting and Recordkeeping Under TSCA; Revision to Regulation*, 90 Fed. Reg. 217 50923, 50928 (Nov. 13, 2025)

d) ACA supports exemptions for small quantities used for R&D purposes.

ACA also strongly supports EPA's proposed exemption for small quantities used for R&D purposes. The proposed exemption is aligned with standard TSCA reporting exemptions in the CDR, new chemicals reporting and TSCA inventory requirements. Reporting of R&D chemicals would be duplicative since EPA has information about these chemicals already, including information related to environmental and health effects. EPA can supplement its existing data later if needed.

e) ACA supports an exemption for imported articles that includes coatings used on articles.

ACA agrees with EPA's understanding that Section 8(a)(7) specified reporting of PFAS-containing chemicals, but not articles. The proposed exemption for articles would more closely align with standard TSCA reporting exemptions while focusing the reporting on those chemicals in commerce. EPA will also receive information about use of PFAS in articles from manufacturers of PFAS chemicals describing their downstream uses. The duplicative requirement in the current rule requiring articles importers to resubmit this information is unduly burdensome.

ACA also recommends that EPA clearly provide guidance noting that a coating cured on to an article is considered part of the article. As such, it would be exempted under the article exemption. EPA has a long-standing principle that a chemical substance is considered imported "as part of an article" if the substance is not intended to be removed from that article and has no end use or commercial purpose separate from the article of which it is a part.[4] EPA applies this principle in a guidance document explaining CDR reporting requirements:

> *With respect to dyes, water repellant coatings, and flame retardant coatings, even though the dye or coating may be removed or released from the fabric during handling or washing, the removal or release serves no end use function and is not intended to occur. Therefore, the dyes and coatings are imported "as part of" the imported fabric articles*.[5]

III. EPA has not proposed adequate time to respond to its information request.

ACA recommends that the compliance timeframe must, at a minimum, provide a six-month reporting period starting six months after a final rule takes effect. EPA is suggesting that respondents submit reportable information within a three-month data

[4] 40 CFR 711.10(b), as further explained at 42 FR 64583 (1977).

[5] *EPA TSCA Chemical Data Reporting Fact Sheet* (Jan. 2016), available online at: https://www.epa.gov/sites/default/files/2015-12/documents/cdr_fact_sheet_imported_articles_-_final_dec2015.pdf

submission period that would begin two months after the final rule takes effect. This is not realistic considering the broad scope of EPA's data request and changing reporting requirements, yet to be finalized. EPA's frame of reference is reporting times in the CDR. With the CDR, companies typically maintain and track reportable information, and companies have a greater awareness surrounding reportable chemicals. Here, companies are dealing with a new and very broad data set, for a broadly defined set of chemicals. While the proposed exemptions are much needed, the final requirements are still evolving, and EPA must provide an adequate compliance framework. Substantially more time is needed to respond. Developing a finite list of chemicals would also assist with reporting in a timely manner.

In order to comply with TSCA 8(a)(7), companies must review all internally held and reasonably available sources for the presence of broadly defined PFAS to identify and compile relevant information. In most instances, companies will need to contact downstream users and/or suppliers for additional information or even to identify PFAS in mixtures. In the case of coatings companies, this often requires coordinating with foreign suppliers regarding a complex mixture, adding an additional layer of complexity.

The CDX reporting tool also presents a significant reporting time commitment, considering that multiple chemicals in complex mixtures may be subject to reporting with an extensive data set. Each data set for each chemical must be entered manually. Currently, the reporting framework has no accommodation for bulk uploads, while the use of OECD harmonized templates provides another layer of information that must be manually entered. ACA also recommends a final round of beta testing to test efficiency of the system and any changes since the last beta testing program.

IV. EPA can receive information about all chemicals in commerce by requiring reporting for listed chemicals.

ACA strongly recommends restricting reporting to a finite list of chemicals, identified by CAS number. This approach will capture chemicals in commerce, providing EPA with data it needs to develop a PFAS strategy, while providing significant cost savings and clarity to industry by reducing the need to implement a strategy to identify chemicals relevant to EPA's structural definition. Any industry due diligence strategy is unlikely to identify chemicals beyond a specified list of chemicals in commerce, yet the resource allocation for this search is significant. Further, because of the 10-year look back period, EPA will receive irrelevant information about outdated PFAS forms that are no longer in commerce.

EPA is proposing reporting of information over a ten-year look back period, as required by the NDAA 2020, for PFAS chemicals broadly defined to include chemistries with two

or more fluorinated carbons.[6] EPA notes that its structural definition is simply the working definition it uses when identifying PFAS on the TSCA Inventory.[7] EPA's definition, however, also includes thousands of polymers currently exempted from listing on the TSCA Inventory, including fluoropolymers. EPA exempts such polymers from inventory listing since they generally pose a low risk of harm. Some polymers will be registered on the TSCA Inventory for commercial reasons, although exempted.

Fluoropolymers provide yet another area where EPA is asking industry to implement a costly due diligence strategy to identify chemicals that have already been reported to EPA under polymer exemption requirements, with information about health, safety and environmental effects. Further, any additional studies about fluoropolymers in commerce are typically publicly available. EPA can identify these as needed, as its PFAS strategy evolves.

EPA can obtain complete information about PFAS chemicals in commerce by requiring reporting for chemicals on existing PFAS lists. The PFAS list published for the purpose of TRI reporting provides an exhaustive list of PFAS in commerce, providing EPA with an adequate basis to develop its PFAS strategy. In the alternative, EPA can refer to the extensive list of fluorinated chemicals listed in the initial proposal for the TSCA 8(a)(7) reporting rule. Although this list includes legacy forms resulting redundant information, the list provides industry with PFAS chemistries listed by CAS number, while providing EPA a data set on a broad and overly inclusive list of chemicals.

EPA should also consider that information is already available about legacy fluorinated chemicals, some of which have been voluntarily removed from the marketplace. Resubmission as part of a broad data collection covering a ten-year look back period will provide little to no information of value for policy planning. EPA instead should focus on collection and evaluation of studies related to newer fluorinated chemicals that may present health or environmental concerns. EPA can avoid duplicative reporting and overly burdensome data collection requirements by working with stakeholders to identify a relevant list of PFAS chemicals, if needed, including legacy forms that may be associated with contamination.

V. EPA should make the use of OECD Harmonized Templates optional.

ACA recommends making the use of OHT (OECD Harmonized Templates) optional due to the significant burden they present coupled with their lack of utility. The paint and coatings industry typically does not maintain information in the OHT format. Companies must transcribe information for each chemical into this format, within the

[6] EPA provides a structural definition of PFAS as "any chemical substance or mixture that structurally contains the unit R-(CF2)-C(F)(R')R. Both the CF2 and CF moieties are saturated carbons. None of the R groups (R, R' or R") can be hydrogen." EPA Proposed PFAS Reporting Rule, 86 Fed. Reg. 33926, 33929, Section D (June 28, 2021).

[7] EPA Proposed PFAS Reporting Rule, 86 Fed. Reg. 33926, 33929, Section D (June 28, 2021).

CDX reporting platform, a time-consuming endeavor. The CDX platform is not equipped for bulk upload of these forms, and even it was equipped, coatings companies are not maintaining data in OHTs requiring transcription. The OHT format also seems to present barriers to use from EPA's side. Historically, EPA reporting has not been compatible with IUCLID (International Uniform Chemical Information Database) using the OHT format. ACA has not been unable to determine whether the CDX platform is now updated for ease of use using the OHT format.

VI. EPA should allow *optional* use of robust study summaries in lieu of the full study report to meet the requirement to report environmental and health effects.

EPA requests comment about whether a robust study summary can suffice in lieu of a full study report when reporting environmental and health effects information required under 40 CFR 705.15(f). ACA supports making this requirement optional. In many instances, a company can more readily submit a full study report, whereas developing a robust study summary would require additional time and effort. For downstream product formulators, reporting as importers and sometimes domestic manufacturers, companies typically would hire someone to develop these summaries, requiring additional compliance burden, although some burden is involved with review of the robust study and redaction of confidential information when submitting the full study report.

Ideally, EPA would redact the requirement for full study reports and robust study summaries since EPA could request this information if it prioritizes a chemical for further action. EPA explains that it requests full study reports to provide additional context if a chemical is selected for further action:

> *The full study reports and support documents are necessary for EPA to understand the full context and evaluate the quality of the data, which is necessary for the Agency to review if data were to be used for any future Agency actions*.[8]

The full study report is not needed at this stage when EPA is seeking a broad inventory of PFAS chemicals and information to determine further action.

VII. EPA's cost analysis underestimates compliance costs to industry.

EPA's Draft Economic Analysis[9] grossly underestimates costs associated with data collection. EPA underestimates the number of affected companies as about 255 affected firms, derived from the number of firms reporting manufacture of identified

[8] *EPA 2021 Proposed TSCA 8(a)(7) PFAS Reporting Rule,* 86 Fed. Reg. 121, 33926, 33932 (June 28, 2021).
[9] *EPA Draft Economic Analysis for the Proposed TSCA Section 8(a) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances*, ("EPA Draft Economic Analysis"), RIN2070-AK67_EO12866_PFAS-TSCA 8a_NPRM_EconomicAnalysis_2021-02-11.docx

PFAS on the TSCA Inventory.[10] This estimate does not account for companies importing chemical mixtures. These companies would be subject to the rule. In some instances, companies would also be required to submit additional information about fluorinated polymers not included on the TSCA Inventory. EPA's estimate of affected firms does not account for these companies either. In effect, cost to industry is severely underestimated, as it was in the prior economic analysis also[11]

EPA also underestimates hours, cost of compliance and related agency burden. EPA estimates a total number of 42.41 hours per firm devoted to reporting chemical identity. This estimate should be considerably higher due considering the burden of identifying polymers not listed on the TSCA Inventory and trace amounts in mixtures that are not easily identifiable. EPA estimates about 462 hours total per firm to gather and submit all other reportable information, including information about uses, occupational exposure and environmental and health effects.[12] Considering the number of chemicals anticipated to fall under this rule with extensive amount of data requested, time estimates should be significantly higher.

EPA underestimates the compliance burden established by the "known to or reasonably ascertainable by" standard of due diligence. The standard requires a detailed review of internal records at all levels of the company, not just management, followed by focused external inquiries when justified. Interpretation of the standard is case specific. Companies may need to inquire with a buyer, supplier or other company where an internal document indicates that such entity has additional information. For this rule, coatings companies would coordinate with suppliers to identify PFAS chemicals, including foreign suppliers of complex mixtures. Under the standard, inquiries can also extend to sub-contractors hired for research and development that may have relevant information.

Under the *known to or reasonably ascertainable by* standard of due diligence, companies must not only submit requested information in its possession, but also any information that it could reasonably be expected to know. In effect, companies must obtain information not in its possession, if it falls within scope of what other companies normally maintain. To assure compliance, most companies will want to expend ample time and resources to thoroughly evaluate internal records and make external inquiries.

EPA also requires a large data set and/or estimated data for each chemical within scope, adding to the significant regulatory burden. Reportable data includes categorization of estimates related to downstream processing, commercial uses,

[10] EPA Draft Economic Analysis, p. 2-3.
[11] EPA Draft Economic Analysis, p. vi
[12] EPA Draft Economic Analysis, p. 3-5.

consumer uses, uses in children's products, disposal methods, information about environmental and health effects, etc. ACA commends EPA's interest in developing a comprehensive understanding of risks associated with fluorinated chemistries. However, such extensive data sets will not provide new information for older PFAS forms.

VIII. Exemptions for small business

EPA should exempt small businesses from reporting purely based on TSCA Section 8(a)(1) and the unique compliance burden faced by small businesses. TSCA Section 8(a)(1) excludes small manufacturers from being subject to reporting rules. EPA argues that NDAA 2020 authorizes data collection from all manufacturers since Section 8(a)(7) provided, "each person who has manufactured a chemical substance that is a perfluoroalkyl substance" shall be subject to the rule.[13] The term "manufacture" is commonly used in TSCA and is broadly defined to include importers of a chemical, as well chemical manufacturing, but not downstream processing or use of a chemical. Small businesses are commonly exempted from reporting requirements for "manufacturers" to reduce duplicative information while reducing the burden on small business, where compliance costs can have a pronounced impact. EPA's decision to read this Section 8(a)(7) independent of the small business exemption in Section 8(a)(1) is not justified and violates a plain reading of Section 8. As such, EPA goes beyond its congressional mandate to issue a rule under Section 8(a) of TSCA.[14]

IX. Conclusion

ACA appreciates the opportunity to provide comment regarding EPA's proposed changes to the TSCA 8(a)(7) reporting requirement. Please consider the following suggestions as detailed above:

- Modify data submission requirements to eliminate data submission from chemical importers or restrict importer data submission to chemical identities from a restricted list of chemicals, preferably the TRI PFAS reporting list.
- Modify the "known to or reasonably ascertainably by" standard, for the purpose of this rule, to allow importers to rely on communications from domestic suppliers indicating compliance, so that importer would not need to submit a report for the same chemical when imported. In lieu of a complete data set, an importer should be allowed to submit a notification of import.

[13] EPA Proposed PFAS Reporting Rule, 86 Fed. Reg. 33926, 33929, Section D (June 28, 2021).
[14] *National Defense Authorization Act 2020,* S. 1790, 116th Congress, available online at: https://www.congress.gov/bill/116th-congress/senate-bill/1790/text

- Modify the "known to or reasonably ascertainably by" standard so a company does not need to make external inquiries but can rely completely on documentation provided by a supplier including SDS.
- Finalize a *de minimis* exemption aligned with international disclosure thresholds as adopted in the OSHA Hazard Communication Standard.
- Finalize an additional volume-based threshold, preferably at 2,500 lbs./year (from the CDR) or in the alternative, 100 lbs./year (from the TRI PFAS reporting requirements). Some manufacturers have indicated that even a 100 lbs./year threshold is helpful.
- Finalize proposed exemptions for by-products, impurities and non-isolated intermediates.
- Finalize proposed exemption for small quantities used for R&D purposes.
- Finalize proposed exemption for articles while clarifying EPA's standard practice related to coatings, that coatings on an article are considered part of the article and would be exempted.
- Extend compliance time so reporting begins six months after the rule takes effect with a six-month reporting period after reporting begins.
- Restrict reporting of data sets under 40 CFR 705.15 to a finite list of PFAS chemicals.
- Modify the requirement so use of OECD Harmonized Templates is optional, while also allowing optional use of robust study summaries.
- Redact the requirement to submit full study reports for unpublished studies addressing environmental and health effects.
- Adjust EPA's cost analysis to more realistically estimate covered companies, including chemical importers.

Please feel free to contact me with any comments or inquiries.

Respectfully submitted,

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