

# EPA Proposes Significant Changes to PFAS Reporting Requirements Under the TSCA

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In October 2023, the U.S. Environmental Protection Agency (USEPA) promulgated a new rule under Section 8(a)(7) of the Toxic Substances Control Act (TSCA) that requires companies to report the manufacture or import of any per- and polyfluoroalkyl substances (PFAS) since 2011, including products containing PFAS. TSCA provides USEPA with the authority to require reporting, record-keeping and testing, and impose restrictions related to chemical substances and mixtures.

Since the reporting requirement was promulgated in October 2023, USEPA has twice extended the reporting deadline, with the most recent extension pushing the start of the data submission period from July 2025 to April 2026.

However, on Nov. 13, 2025, USEPA published a proposal rule that contains significant proposed exemptions to the reporting requirement for manufacturers and importers of PFAS. Under the original rule promulgated in 2023, the only exemption was for the import of municipal solid waste streams for the purpose of disposal of or destroying said waste.



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The stated goal of the proposed rule is to improve the scope of PFAS reporting requirements under TSCA by making the requirements more practicable and implementable and to reduce unnecessary or duplicative reporting requirements. According to USEPA, these changes will result in reduced costs for manufacturers and importers while ensure that USEPA receives the PFAS data most relevant to the agency.

In order to achieve the stated goal of easing compliance burdens and reducing cost for manufacturers and importers of PFAS, the

proposed rule contains a number of significant exemptions and modifications.

- **De Minimis.** The EPA is proposing a de minimis concentration exemption for reportable PFAS in mixtures or articles under which PFAS concentrations below 0.1% would be exempt from reporting. This low-concentration exemption would apply regardless of total production volume of the mixture or article. There is no de minimis exemption under the current report rule promulgated in October 2023.
- **Imported Articles.** The proposed rule is proposing to exempt PFAS imported as part of an article from the scope of reportable activities. An “article” is defined in the applicable regulations as “a manufactured item which is formed to a specific shape or design during manufacture, which has end-use function(s) dependent in whole or in part upon its shape or design during end use, and which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.” This proposed exemption aims to recognize that PFAS importers are unlikely to have known or reasonable ascertainable information regarding PFAS contained in imported articles.
- **Byproducts, Impurities and Non-Isolated Intermediates.** The proposed rule would exempt the manufacture of PFAS as

byproducts, impurities, or nonisolated intermediates when manufactured under the conditions specified in 40 CFR 720.30(h). Specifically, USEPA is proposing to exempt any “byproduct” not used for commercial purposes, which is defined to mean “a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).” Moreover, an “impurity” is a “chemical substance unintentionally present without another chemical substance.” Finally, “nonisolated intermediates” are “substance manufactured and consumed within a closed system during the production of another chemical substance.”

- **Research and Development Chemicals.** USEPA is proposing to exempt PFAS manufactured (including imported PFAS) in small quantities solely for the purpose of research and development. This proposed exemption has no threshold limit. According to USEPA, information on PFAS manufactured solely for research and development purposes is limited and would provide minimal utility regarding potential PFAS exposure and the quantities of PFAS in commerce.

The proposed rule also includes proposed alterations to the submission period. Under the proposed rule, the submission period will begin 60 days after the effective date of the final rule and will last for three months. According to USEPA, the passage of time since the 2023 rule was promulgated has provided required reporters with adequate time to prepare for compliance.

Additionally, because no reporting will be required from article importers under the

proposed rule, USEPA proposed to remove the reporting deadline for small manufacturers who would be required to report solely due to their status as article importers.

It appears that USEPA has listened to stakeholder input with the proposed exemptions to PFAS reporting requirements under TSCA by seeking to minimize costs and alleviate burdens on subject entities, in particular small manufacturers. Indeed, under the proposed rule, USEPA has estimated that industry compliance burden will be reduced by 10-11 million hours and the total cost savings will be between \$786 million and \$843 million. Small businesses that are subject to the original rule promulgated in October 2023 alone are expected to be relieved of between \$703 million and \$761 million in regulatory compliance burden.

It is also notable that, with regarding to requiring article importers to report under TSCA, USEPA expressly declared that the original rule promulgated in October 2023 exceeds USEPA's statutory authority under TSCA Section 8(a)

(7). While not expressly stated in the proposed rule, this position could be a result of the U.S. Supreme Court's decision in *Loper Bright*, which did away with the longstanding of *Chevron* deference to federal agency interpretations of ambiguous statutes. This would not be the first time that *Loper Bright* has expressly informed USEPA policy and led to a pull back in environmental enforcement and reporting, as USEPA recently proposed to rescind the 2009 endangerment finding, which allowed USEPA to regulate pollutants that USEPA determined to be an endangerment to public health and welfare.

The public comment for the proposed rule is open through Dec. 29, 2025. In particular, USEPA is soliciting comments on each of the proposed exemptions as well as the proposed amendment to the data submission period.

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