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Via Regulations.gov (EPA-HQ-OPPT-2020-0549)

Honorable Douglas Troutman, Assistant Administrator
Office of Chemical Safety and Pollution Prevention (OCSP)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460-0001

Re: Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Revision to Regulation; 90 Fed. Register 50923 (November 13, 2025); Docket ID: EPA-HQ-OPPT-2020-0549-0311

Dear Assistant Administrator Troutman,

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments on the U.S. Environmental Protection Agency's (EPA or Agency's) proposed rule revisions for PFAS data reporting and recordkeeping under TSCA (hereinafter "2025 Proposed Rule"). RILA and its members support the EPA's critical mission to protect human health and the environment, and values the Agency's leadership on chemical safety matters, including its efforts to address PFAS through the proposed TSCA rule revisions and ongoing stakeholder engagement.

By way of background, RILA is a trade association of the world's largest, most innovative, and recognizable retail companies and brands. We convene decision-makers, advocate for the retail industry, and promote operational excellence and innovation. Our aim is to elevate a dynamic retail industry by transforming the environment in which retailers operate.

RILA members include more than two hundred retailers, product manufacturers, and service suppliers, who together employ over 42 million Americans and account for \$2.7 trillion in annual sales and hundreds of thousands of stores, manufacturing facilities, and distribution centers domestically and abroad. RILA and its member companies strongly support the mission and goals of the EPA to protect human health and the environment, including preventing exposure risk from chemical substances that may be present in

consumer goods and products. RILA members have robust compliance programs in place and work closely with trusted suppliers to ensure that all products that they sell meet or exceed all applicable U.S. safety standards and legal requirements.

RILA previously submitted comments to EPA OCSPP on September 27, 2021, to be considered as part of its Proposed Rule for TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for PFAS¹ (hereinafter “2021 Proposal” and “2021 Comments”). Ultimately the final rule, published in 2023,² failed to tailor the overly broad scope of the universe of imported products that retailer-importers would be required to report on. Under the 2023 Final Rule, retailer-importers must undertake significant and disproportionately burdensome efforts to track down and collect data on ten years of previously imported products. This onerous data collection process could largely turn up limited to no data on vast majority of products imported during the 10-year lookback period.

RILA is encouraged to see the EPA revisit the scope of the 2023 Final Rule and propose significant narrowing amendments to it in this current 2025 Proposed Rule. RILA respectfully submits the following comments to the EPA, to affirm its strong support for the proposed exemptions from reporting included in the 2025 Proposed Rule. RILA’s comments underscore the significant challenges retailers encounter under the existing 2023 Final Rule and highlight the critical importance of finalizing the proposed amendments. RILA also is sharing feedback on the need to align compliance timeline with implementation realities, as well as input on the reporting volume thresholds and companion technical information that the EPA should provide to support implementation.

The Agency should:

- Finalize proposed amendment to exempt imported articles from the scope of reportable activities;
- Adopt the proposed amendments to exempt from the rule scope where for PFAS is present as a byproduct, impurities, non-isolated intermediates, or in *de minimis* amounts;
- Maintain original 6 month reporting window finalized under the 2023 Final Rule;
- Adopt a 180-day compliance timeline following publication in the *Federal Register*;

¹ See [RILA Comments re: Proposed Rule – TSCA Section 8\(a\)\(7\) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances; 86 Fed. Register 33926 \(June 28, 2021\); Docket ID: EPA–HQ–OPPT–2020–0549.](#)

² 88 Fed. Reg. 70516, Toxic Substances Control Act Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances (Oct. 11, 2023) (hereinafter “2023 Final Rule”).



- Implement an annual volume threshold that aligns with the Chemical Data Reporting (CDR) reporting threshold of 2,500 lbs. for regulated chemicals; and
- Publish and maintain a definitive list of Chemical Abstract Service (CAS) numbers and accession numbers for the full scope of reportable substances.

The above recommendations are discussed in more detail, below.

Comments

I. EPA Should Finalize Proposed Amendments to Align with Long-Standing TSCA Practices

RILA and its members support the EPA's 2025 Proposed Rule to exempt imported articles, *de minimis* concentrations, impurities, and non-isolated intermediates from PFAS reporting and recordkeeping under TSCA Section 8(a)(7). By revising the Final 2023 Rule to now include these exemptions, the Agency will align the rule with long-standing TSCA practices and appropriately focus reporting obligations on those entities who are most likely to possess meaningful PFAS data.

A. EPA Should Exempt Imported Articles from Scope of Reportable Activities

RILA and its members fully support EPA's proposal to exempt imported articles under the revised rule requirements. The National Defense Authorization Act (NDAA) for Fiscal Year 2020, that directed EPA to issue this, did not expressly require the Agency to include articles containing PFAS in its reporting rule under TSCA. As such, exempting imported articles from reportable activities is well within the scope of the EPA's discretion. By exempting imported articles, the EPA will be able to alleviate the unmanageable burden retailer-importers would face to be able to produce little to no meaningful data.

As RILA raised in our 2021 comments³, retailers do not typically manufacture the products they sell and have extremely limited visibility into upstream chemical processes and sourcing of raw materials and components. Thus, it is almost impossible for them to determine PFAS content in the millions of stockkeeping units (SKUs) they would have imported over the 10-year lookback period. With very limited actual knowledge of chemical substances used in the manufacturing process of finished articles, retailer-importers are left with mostly anecdotal evidence of where PFAS substances *may* be present in a finished article based on product related claims, which would just result in grossly inaccurate estimates.

³ Id.



It is also RILA's understanding that any existing test methods to identify the chemicals *may* lack the precision necessary to identify the presence of all individual PFAS chemistries. Even if some test labs have the capacity to test for all PFAS, it is unlikely that all commercial labs are equipped to provide PFAS testing to the specificity required by the current rule. Additionally, considering that retailer-importers were not previously obligated to collect documentation from testing labs that identified the presence of PFAS, the current rule effectively requires them to report on information they do not possess.

Furthermore, members who have initiated good faith efforts to assess PFAS in imported articles have found that they will be compelled to answer "not knowable/reasonably ascertainable" for broad swaths of their products. Undertaking the supply chain verification process for data that retailer-importers may or may not possess is an incredibly resource and time-intensive effort to complete, if not impossible to execute. In reaching back to suppliers used over the past decade, challenges encountered may include suppliers who are no longer in operation and/or suppliers that retailers may no longer have relationships with and therefore have no leverage to obtain information regarding a product's chemical compositions.

EPA should include the proposed amendment to exempt imported articles from the scope of PFAS data collection and reporting activities under Section 8(a)(7) in its final revised rule. This exemption will allow EPA to direct its efforts and resources at collecting data from manufacturers that are closer to the formulation of those products and more likely to possess meaningful and accurate information on their composition. An imported articles exemption will significantly reduce disproportionate compliance costs currently borne by retailer-importers under the 2023 Final Rule, consistent with statutory intent and practical feasibility.

B. EPA Should Adopt the Proposed Byproduct, Impurity, and *De Minimis* Exemptions to Ensure Revised Rule Targets Significant PFAS Levels

Along with the rationale set forth above, retailers' limited visibility into the supply chain is further attenuated where chemicals may only be present as a byproduct, as a non-isolated intermediate, as impurities, or in *de minimis* amounts. To be able to conduct the type of due diligence that EPA has described under the "known or reasonably ascertainable" standard, each retailer-importer would be required to undertake a time and resource intensive process to review hundreds of thousands of products imported annually. Multiply those efforts over the 10-year lookback period, and the number of products quickly jumps into the millions, if not more.



As RILA raised in its 2021 comments⁴, the EPA should exclude PFAS byproducts and impurities from the reporting rule, as PFAS substances, due to their chemical properties and behaviors, are ubiquitous in the environment. Trace amounts of PFAS may be present in products as impurities due to their presence in the environment and/or historical manufacturing practices. Even where phased out, trace amounts may still be present and can end up in finished articles in *de minimis* amounts – all of which are outside of the control of the manufacturer and retailer-importer.

Excluding byproducts and impurities, together with the 0.1% *de minimis* concentration exemption, will ensure that reporting captured and submitted to the Agency is that of significant concentrations, where PFAS was *intentionally added* in the manufacturing process, and avoid any unnecessary burdens on obligated reporters to try and track down data on trace-level quantities of PFAS. As such, RILA urges the EPA to move forward with the proposal to exclude byproducts, impurities and *de minimis* concentrations from the scope of reportable activities.

II. EPA Should Establish Compliance Timeframes that Reflect the Complexity of Reporting Requirements

To foster consistent reporting practices and advance EPA's objective of minimizing compliance burdens for industry stakeholders, RILA strongly encourages EPA to revise the proposed rule so that timeframes account for data compliance realities and reflect the complexity of the reporting requirements. In its 2025 Proposed Rule, the EPA has included the proposal for the reporting window to open 60 days following publication in the *Federal Register* with a shortened reporting window of 3 months. For the reasons set forth below, RILA believes the total proposed compliance timeline of 5 months is insufficient and recommends that the Agency maintain the original 6 month reporting window that opens at least 180 days following publication in the *Federal Register*.

A. EPA Should Establish an Effective Date of at least 180 Days Following Publication in the *Federal Register*

While RILA members are encouraged by the Agency's decision to revise the current reporting requirements for PFAS under TSCA, the immediacy with which retailers and other obligated reporters would have to familiarize themselves with the final rule and prepare reporting submissions creates some concerns. EPA includes a 60-day effective date following publication in the *Federal Register*, which it proposes to correspond with the

⁴ Id.



opening of the reporting window. This abbreviated timeline does not adequately reflect the substantial time and resources required to collect and prepare the necessary data for reporting, especially considering the complexities and scope involved. RILA strongly urges the EPA to adopt a reporting schedule that reflects the intricacies of these reporting requirements.

While reporting parties initially began preparing to collect and organize data for the submission period that is set to open in April 2026, that work has largely paused pending the outcome of this rulemaking given the significant change in scope to the reporting in the 2025 Proposed Rule regarding required data elements. Consequently, there is no assurance that any preparatory work already done thus far will ultimately contribute to fulfilling final rule requirements. As such, RILA respectfully requests that EPA provide a lead time of at least 6 months (180 days) prior to the opening of the reporting period.

It will be crucial for obligated reporters to have a minimum of 180 days following publication in the *Federal Register*, as this advance notice provides the necessary time to gain familiarity with the final rule, prepare and conduct supply chain verifications, gather supporting documentation for thorough testing, and implement any required updates to the Central Data Exchange (CDX) reporting system. EPA needs to account for the time necessary to navigate these complexities when setting submission deadlines for PFAS reporting under its final rule.

B. EPA Should Maintain a 6 Month Reporting Window which Aligns with Established Agency Practices

RILA strongly urges that the Agency maintain the original 6 month reporting window established under the 2023 Final Rule, rather than adopting the proposed 3 month reporting window. Even though retailer-importers have been preparing to comply, the proposed 3 month reporting window is insufficient to accommodate the potential entry of the sheer volume of 10 years of data required around even a narrower reporting universe.

The shortened proposed timeline fails to account for the CDX platform's known limitations and technical challenges, which routinely hinder timely submissions. These include system errors that falsely indicate successful submissions when entries have not been properly processed, persistent delays and inefficiencies when inputting large volumes of data, and other technical challenges that hinder timely data submissions.

RILA strongly recommends that the EPA maintain the original 6 month reporting window which would align with established Agency practices – most notably, established CDR cycles which provided at least 6 months for reporting. Especially considering that the



current reporting cycle has a broader scope than routine CDR cycles, setting at least a 6-month reporting timeline is further justified to ensure stakeholder readiness and facilitate more effective and accurate compliance with the final rule.

Together with the recommended 180-day compliance timeline recommended above, maintaining the original 6 month reporting window would give obligated reporters a full year to gain familiarity with the final rule, collect meaningful data, and prepare reporting submissions which are critical steps in achieving compliance with the final rule.

III. Proposed Rule Revisions should Align with Current Agency Practices

To ensure clarity, consistency and practical implementation, RILA urges the EPA to align the proposed rule revisions with established Agency reporting practices under TSCA. Alignment with existing TSCA reporting frameworks will reduce unnecessary complexity, promote regulatory consistency, and minimize undue burdens on retailers and other regulated entities that will have reporting obligations under the final rule.

A. Adopt Annual Volume Threshold that Aligns with CDR Reporting

RILA recommends that the EPA adopt an annual volume threshold for reporting that aligns with established Agency practices. Specifically, EPA should implement an annual volume threshold that aligns with the standard CDR reporting threshold of 2,500 lbs. for regulated chemicals⁵. By aligning PFAS reporting with this threshold, EPA would be able to ensure regulatory consistency across TSCA programs, reduce confusion, and promote predictability. Additionally, the EPA would be able to further their goal to minimize undue compliance burdens on small manufacturers and retailer-importers, particularly given the extensive lookback reporting period and the complexity of PFAS supply chains.

Furthermore, combined with the proposed amendment to implement a 0.1% *de minimis* concentration level, the approach supports alignment with the “known or reasonably ascertainable” standard⁶ for chemical reporting, by focusing reporting on meaningful quantities, and avoids duplicative reporting for entities already subject to CDR.

Aligning volume thresholds for reporting with the Agency’s CDR standard will ease compliance burdens while still providing high-value data for risk assessment.

⁵ See 40 C.F.R. § 711.8

⁶ 86 Fed. Reg. 33926 at 33928



B. EPA Should Publish a List of Reportable Substances

Given the complexity of reporting requirements and the proposed exemptions, RILA asserts that it is both reasonable and essential for the EPA to publish and maintain a definitive list of Chemical Abstract Service (CAS) numbers and accession numbers for the full scope of reportable substances. The EPA's established practice of managing such lists for other TSCA programs (including CDR and the Toxics Release Inventory (TRI)) demonstrates its unique qualifications to identify and maintain these materials, even for those with confidential business information (CBI) claims. As reporters are required to identify these substances and communicate relevant information to downstream customers upon request, RILA members believe that it is not reasonable for EPA to assert that CBI prevents disclosure, when such disclosure is required for compliance. By providing the accession numbers, the Agency can ensure that downstream users receive only the critical information needed for compliance, thereby preserving confidentiality while meeting regulatory obligations.

Additionally, RILA recommends that EPA review and refine the definitive list of CAS numbers and accession numbers for reportable substances, ensuring that it only includes those substances that strictly meet the structural definition of PFAS established under the 2023 Final Rule⁷. This definition pertains to chemicals containing specific perfluoroalkyl moieties and may exclude certain polymer variations, such as polyvinylidene fluoride (PVDF), where random polymerization can result in portions of the polymer backbone meeting the -CF₂-CF₂- criteria by outcome, but not by intentional design. By carefully curating this list, EPA can enhance regulatory clarity and prevent the inclusion of substances that do not genuinely align with the defined PFAS structure, thereby supporting both effective compliance and regulatory consistency.

IV. Conclusion

RILA appreciates the opportunity to provide these comments on the Agency's proposed amendments to the TSCA PFAS Reporting and Recordkeeping Rule and support the EPA's goal to reduce burdens of regulatory compliance on small manufacturers and importers. RILA urges the EPA to consider the significant burdens retailer-importers may face if the proposed exemptions are not finalized and the current rule requirements remain in effect. RILA values the longstanding relationship and continued engagement with the EPA on this important issue and provides these comments to support ongoing collaboration and constructive dialogue between RILA, its retailers, and the EPA.

⁷ See *supra*, footnote 2 at 70518.



If you have any questions or need any additional information, please contact Luisa Lobo at luisa.lobos@rila.org / (202) 866 – 6811 and Susan Kirsch at susan.kirsch@rila.org / (202) 866 7477.

Sincerely,

Handwritten signature of Luisa Lobo in black ink.

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