

December 29, 2025

Office of Pollution Prevention and Toxics

Environmental Protection Agency
1200 Pennsylvania Ave.
NW, Washington, DC 20460-0001

Submitted via: Federal eRulemaking Portal

Re: Comments on Perfluoroalkyl and Polyfluoroalkyl Substances Data Reporting and Recordkeeping Under the Toxic Substances Control Act; Revision to Regulation; Docket ID No. EPA-HQ-OPPT-2020-0549

Dear Office of Pollution Prevention and Toxics:

Conservation Law Foundation, Inc. (“CLF”), Philip J. Landrigan, MD, MSc,¹ and the undersigned organizations submit these comments in opposition to the U.S. Environmental Protection Agency’s (“EPA”) proposed rule to change the perfluoroalkyl and polyfluoroalkyl substances (“PFAS”) reporting regulations under the Toxic Substances Control Act (“TSCA”).

I. Background

On December 20, 2019, the National Defense Authorization Act (“NDAA”) amended TSCA section 8(a), adding section 8(a)(7), which requires EPA to promulgate a rule “requiring each person who has manufactured a chemical substance that is a [PFAS] in any year since January 1, 2011” to report information described in TSCA section 8(a)(2)(A) through (G).² Section 8(a)(2)(A) through (G) includes a broad range of information regarding PFAS uses, production volumes, byproducts, disposal, exposures, and environmental and health effects.³

The goal of section 8(a)(7) is “to create a more comprehensive database of previously manufactured PFAS to improve [EPA’s] understanding of PFAS in commerce and to support actions to address PFAS exposure and contamination.”⁴ To that end and to fulfill its obligations under TSCA section 8(a)(7), on October 11, 2023, EPA “promulgat[ed] reporting and

¹ CLF is a member-supported, nonprofit environmental advocacy organization that works throughout New England to protect the environment for the benefit of all people. CLF’s Communities and Toxics Team strives to create healthy communities, free from toxic threats—where everyone can drink clean water, breathe fresh air, and live in safe housing.

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² 15 U.S.C. § 2607(a)(7).

³ 15 U.S.C. § 2607(a)(2).

⁴ 88 Fed. Reg. 70516 (Oct. 11, 2023).

recordkeeping requirements for entities who have manufactured (includ[ing] imported) a PFAS for commercial purposes at any point since January 1, 2011.”⁵

Now, EPA has “reconsidered its position,”⁶ and is unlawfully proposing to exempt certain activities from the reporting and recordkeeping rule, including for de minimis concentrations, imported articles, byproducts, impurities, non-isolated intermediates, and research and development (“R&D”) chemicals. EPA’s proposed exemptions are contrary to TSCA section 8(a)(7)’s text and purpose, and undermine EPA’s ability to fulfill its obligations under TSCA. An exemption for importers alone would exclude **over 98%** of entities currently subject to the PFAS reporting requirements, essentially obliterating the rule. Thus, the undersigned strongly oppose the proposed exemptions and urge EPA to retain the reporting and recordkeeping requirements of the current rule.

II. EPA’s Proposed Reporting Exemptions for De Minimis Concentrations, Imported Articles, Byproducts, Impurities, Non-Isolated Intermediates, and Research and Development Chemicals are Unlawful.

A. The Plain Reading of TSCA Section 8(a)(7) Prohibits EPA’s Proposed Exemptions.

TSCA section 8(a)(7) requires EPA to promulgate a rule “requiring **each** person who has **manufactured a chemical substance** that is a [PFAS] in any year since January 1, 2011” to report information described in TSCA section 8(a)(2)(A) through (G).⁷ This mandate could not be any clearer—**any** PFAS that is manufactured or imported must be reported.⁸ Nowhere in TSCA section 8(a)(7) is EPA given the authority or discretion to deviate from this mandate by authorizing exemptions or reducing the scope of reporting. This is in sharp contrast to other TSCA section 8 provisions, which explicitly provide for exemptions and discretion. For example, TSCA section 8(a)(1) specifically provides an exemption for small manufacturers and processors.⁹ The fact that Congress included explicit exemptions in one provision of TSCA section 8, but none in TSCA section 8(a)(7), shows that Congress did not intend for EPA to allow for any exemptions under this provision. This makes sense when one considers the purpose of TSCA section 8(a)(7)—creating a comprehensive database to better understand the pervasiveness of PFAS usage and associated risks to public health and the environment. EPA simply cannot fulfill its obligations under TSCA section 8(a)(7) unless it considers all PFAS, including PFAS within the proposed exemptions.

⁵ *Id.*

⁶ 90 Fed. Reg. 50924 (Nov. 13, 2025).

⁷ 15 U.S.C. § 2607(a)(7).

⁸ Courts have consistently interpreted “each” to refer to “[e]very one of a group.” *Sierra Club v. EPA*, 536 F.3d 673, 678 (D.C. Cir. 2008) (quoting American Heritage Dictionary 269 (4th ed. 2001)).

⁹ 15 U.S.C. § 2607(a)(1).

B. EPA Cannot Rely on the Exemptions in Other TSCA Sections to Support its Proposed Exemptions.

EPA argues that its proposed exemptions for impurities, non-isolated intermediates, and R&D chemicals are permissible because such exemptions are found in TSCA's Chemical Data Requirements ("CDR") regulation at 40 C.F.R. § 711.10(c). This argument is unavailing because, as discussed above, TSCA section 8(a)(7), unlike other provisions of TSCA section 8, does not authorize any exemptions. Additionally, the goals of the CDR regulation differ significantly from the PFAS reporting rules. As EPA has previously acknowledged, "CDR's intent is to obtain initial screening information on a broad universe of chemicals, while this rule's aim is to collect information specifically on PFAS."¹⁰

EPA also argues that its proposed exemptions for byproducts, impurities, non-isolated intermediates, and R&D chemicals are permissible pursuant to 40 C.F.R. § 720.30 and that its proposed exemption for R&D chemicals is additionally permissible pursuant to TSCA section 8(b)(1). 40 C.F.R. § 720.30 contains exemptions to the pre-manufacture notice process ("PMN"),¹¹ and TSCA section 8(b)(1) contains inventory reporting exemptions. Both provisions are irrelevant to TSCA section 8(a)(7)'s reporting requirements as mandated by the NDAA.

As EPA previously explained, through TSCA section 8(a)(7), "EPA aims to better understand the scope of existing knowledge of the universe of historically manufactured PFAS and implementing certain exemptions may inadvertently lead to the omission of information known to or reasonably ascertainable to some manufacturers."¹² Therefore, the same reporting exemptions used in other TSCA rules are not warranted with TSCA section 8(a)(7).¹³

C. EPA Cannot Rely on the Data Availability and Duplicative Data Provisions in TSCA Section 8(a)(5) to Support its Proposed Exemptions.

EPA's reliance on the data availability and duplicative data provisions in TSCA section 8(a)(5) for its proposed exemptions for de minimis concentrations, imported articles, byproducts, impurities, non-isolated intermediates, and R&D chemicals is similarly misplaced. TSCA section 8(a)(5) is not a blanket exemption from TSCA's reporting requirements. Rather, TSCA section 8(a)(5) simply requires that, when exercising its authority under TSCA section 8, EPA shall, "to the extent feasible," "(A) not require unnecessary or duplicative reporting, (B) minimize compliance costs on small manufacturers and processors, and (C) apply any reporting obligations to those persons likely to have information relevant to effective implementation of TSCA."¹⁴

¹⁰ 88 Fed. Reg. 70537 (Oct. 11, 2023).

¹¹ Information collected through a PMN reflects information before manufacture of a substance commences.

¹² 88 Fed. Reg. 70537 (Oct. 11, 2023).

¹³ *Id.*

¹⁴ 15 U.S.C. § 2607(a)(5); 88 Fed. Reg. 70517 (Oct. 11, 2023).

i. EPA's Data Availability Arguments are Unavailing.

EPA makes several data availability arguments pursuant to TSCA section 8(a)(5) in defense of its proposed exemptions. For example, EPA argues that manufacturers may lack data for PFAS below 0.1%, imported articles, impurities, and R&D chemicals, thus making such reporting unduly burdensome. However, TSCA section 8(a)(7), in conjunction with section 8(a)(2), already limits reporting to information that is “known” or “reasonably ascertainable,” and EPA has previously clarified that the current rule imposes no new testing requirement.¹⁵ As EPA previously explained in response to a comment regarding finished article manufacturers, “The reporting standard for this rule does not mandate an exhaustive supply chain survey or product testing to definitively conclude whether a PFAS is included within such a complex product.”¹⁶ The “known or reasonably ascertainable” standard currently in place appropriately balances burden and transparency. EPA’s current rule further reduces the burden on article importers and R&D chemical manufacturers who manufacture in volumes under ten kilograms per year by creating a streamlined reporting form for these entities.¹⁷

Thus, EPA’s proposal puts the cart before the horse by attempting to preemptively exclude all data related to the proposed exemptions, rather than casting a wide information-gathering net and letting the preexisting guardrails of the “known or reasonably ascertainable” standard determine the outcome. Moreover, as EPA previously explained, “the lack of existing information of the universe of PFAS in commerce . . . justifies the lack of exemptions in this rule.”¹⁸

ii. EPA's Duplicative Data Arguments are Unavailing.

EPA argues that reporting on byproducts “may be duplicative of the requirements [in TSCA section 8(a)(2)(D)] to report on any byproduct produced during the manufacture, processing, use, or disposal of a reportable PFAS.”¹⁹ However, EPA has made clear that under the current rule, manufacturers do not need to resubmit information that has previously been submitted, including for byproducts. Specifically, in promulgating the current rule, the agency stated: “[p]ursuant to TSCA section 8(a)(5)(A), EPA is limiting the requirement for reporting ‘duplicative’ information if a PFAS manufacturer has previously submitted the requested information to EPA for that same PFAS in that same year through CDR, TRI, GHGRP, or TSCA sections 8(d) and 8(e), or is also reporting a PFAS byproduct on its own reporting form.”²⁰ Regarding byproducts, EPA clarified that “[t]o mitigate potentially duplicative reporting concerns . . . manufacturers of byproducts that are also reportable PFAS under [8(a)(2)(D)] need not re-report the environmental release

¹⁵ 88 Fed. Reg. 70520 (Oct. 11, 2023).

¹⁶ See U.S. Environmental Protection Agency, *Response to Public Comments TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances RIN 2070-AK67*, at 67–69 (Sept. 2023) (hereinafter EPA Response to Comments).

¹⁷ EPA Response to Comments at 33; 88 Fed. Reg. 70523 (Oct. 11, 2023).

¹⁸ 88 Fed. Reg. 70538 (Oct. 11, 2023).

¹⁹ 90 Fed. Reg. 50929 (Nov. 13, 2025).

²⁰ 88 Fed. Reg. 70526 (Oct. 11, 2023).

information of that byproduct on the original PFAS's form.”²¹ Thus, EPA's concerns are not justified.

D. EPA's Reliance on the De Minimis Principle for its Proposed De Minimis Concentration Exemption is Misplaced.

EPA erroneously relies on the maxim *de minimis non curat lex* and related case law to justify the de minimis exemption.²² However, as the preamble to the current proposed rule concedes, courts have held that this principle applies only where “the burdens of regulation yield a gain of trivial or no value.”²³ PFAS reporting for lower concentrations is far from trivial, and in fact has great value. The harms from contravening the plain text of the statute through adding a de minimis exemption are twofold: first, the proposed exemption does not account for large volumes of PFAS resulting from the accumulation of low concentrations in products, and second, the .1% threshold overlooks that at least some PFAS are known to be health risks even at small concentrations.

E. TSCA Section 3(9) Requires EPA to Include Imported Articles in the Reporting Rule.

EPA contends that Congress intended the PFAS reporting requirement to target manufacturers of the PFAS themselves, and not importers of articles containing PFAS, because Congress used the wording “that is a [PFAS]” instead of “a more inclusive term” in TSCA section 8(a)(7).²⁴ This reading contradicts TSCA when read as a whole, and prior EPA practice. TSCA section 3(9) defines “manufacture” to include “import.”²⁵ Thus, the NDAA's directive to regulate “manufacturers” automatically encompassed “importers.” As such, if an entity has imported a product that they know or can reasonably ascertain has PFAS, they must report it.

Historically, EPA has asserted authority under TSCA to regulate articles containing chemical substances, and has used that authority to also regulate chemical substances and mixtures.²⁶ Such precedent includes EPA's Long-Chain Perfluoroalkyl Carboxylate Significant New Use Rule and TSCA section 6(a) rules for Persistent, Bioaccumulative, and Toxic Chemicals.²⁷ Therefore, applying TSCA section 8(a)(7)'s reporting requirement to imported articles is consistent with EPA practice and with the statute's mandate to require reporting on imported PFAS.

²¹ *Id.*

²² 90 Fed. Reg. 50926 (Nov. 13, 2025).

²³ *Env't Def. Fund, Inc. v. E.P.A.*, 82 F.3d 451, 466 (D.C. Cir.), amended sub nom. *Env't Def. Fund v. E.P.A.*, 92 F.3d 1209 (D.C. Cir. 1996).

²⁴ 90 Fed. Reg. 50928 (Nov. 13, 2025).

²⁵ 15 U.S.C. § 2602(9).

²⁶ EPA Response to Comments at 7.

²⁷ *Id.*

III. The Proposed Exemptions Will Make It Impossible for EPA To Fulfill TSCA Section 8(a)(7)'s Goal of Creating a Comprehensive PFAS Database and Will Result in Harm to Human Health and the Environment.

PFAS are known as forever chemicals because they do not break down in the environment or in our bodies. These toxic substances are linked to a growing number of health harms, including cancers, fertility issues, child development disorders, hormonal dysfunction, and damage to the thyroid, liver, and kidneys.²⁸ A recent study established that mothers in New Hampshire who lived downstream of sites contaminated with PFAS experienced **triple the rate of infant deaths** and had more premature births or babies with low birth weights than mothers who did not live downstream.²⁹ The International Agency for Research on Cancer, the cancer arm of the World Health Organization, reviewed evidence from epidemiological studies, cancer bioassays in experimental animals, and mechanistic studies to assess the carcinogenic hazard to humans of exposure to PFAS, and in 2025, concluded that PFAS are carcinogenic to humans.³⁰ Despite these serious human health and environmental harms, there is currently no comprehensive inventory of PFAS manufacturing and imports in the United States. TSCA section 8(a)(7) was specifically created to remedy this and to get a better understanding of the enormous scope of the PFAS crisis and to then take appropriate regulatory actions to protect public health and the environment. EPA simply cannot fulfill this mission and protect communities from toxic PFAS if de minimis concentrations, imported articles, byproducts, impurities, non-isolated intermediates, and R&D chemicals are excluded from the reporting rule.

State and local governments are also harmed by the exclusion of these PFAS from the reporting rule. State and local governments can and should use information on the volumes, types, uses, and disposal of manufactured PFAS to inform their own actions addressing PFAS exposures and potential contamination. For example, municipalities throughout New Hampshire, including the City of Manchester (discussed further below), would benefit from the information gathered by the PFAS Reporting Rule because the data would support efforts to identify and address industrial users contributing PFAS to municipal wastewater treatment facilities (“WWTFs”). The PFAS Reporting Rule would provide an invaluable resource for New Hampshire municipalities, supporting their ability to further investigate which industrial users contribute PFAS to their WWTFs and to what degree, and supporting efforts to require PFAS reductions and/or phase outs from industrial users to reduce exposures and resulting health impacts. The PFAS Reporting Rule

²⁸ *Health risks of widely used chemicals may be underestimated*, HARVARD T.H. CHAN SCHOOL OF PUBLIC HEALTH (June 27, 2018), <https://hsph.harvard.edu/news/pfas-health-risks-underestimated/>; *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, U.S. ENVT'L PROT. AG., <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas> (last updated Nov. 5, 2025).

²⁹ Amudalat Ajasa, *PFAS, or 'forever chemicals,' could cause more infant deaths and preterm births*, THE WASHINGTON POST, (Dec. 9, 2025), <https://www.washingtonpost.com/climate-environment/2025/12/09/pfas-forever-chemicals-infant-deaths/>.

³⁰ IARC Working Group on the Identification of Carcinogenic Hazards to Humans, *Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS): IARC Working Group on the Identification of Carcinogenic Hazards to Humans*, INT'L AG. FOR RSCH. ON CANCER (2025), <https://pubmed.ncbi.nlm.nih.gov/40489584/>.

would benefit New Hampshire municipalities in implementing RSA 485-A:5-e, a state law that allows WWTFs to:

- “[R]equire any industrial or commercial facilities . . . contributing discharge to its plant to test such discharge to determine the level of PFAS in the discharge” and
- “[R]efuse discharge from an industrial or commercial facility . . . that has reported a level of PFAS in its discharge above the level the wastewater treatment plant determines to be acceptable.”³¹

As discussed in more detail below, exempting de minimis concentrations, imported articles, byproducts, impurities, non-isolated intermediates, and R&D chemicals will also result in harm to communities and the environment.

A. Low Concentrations of PFAS Can Represent Significant Quantities and PFAS are Hazardous Even at Trace Levels.

Even low concentrations of PFAS can represent hundreds of pounds of PFAS in high-volume products, making reporting data under the current rule critical to understanding PFAS prevalence and exposure pathways. For example, a 100,000-pound mixture containing PFAS at 0.5% includes **500 pounds of PFAS**.³² By implementing a de minimis exemption, EPA risks losing data on hundreds or thousands of pounds of PFAS that are widely distributed in high-volume commercial products.

Furthermore, given the persistence, bioaccumulation, and extreme toxicity of many PFAS, exposure to even low PFAS concentrations can still result in severe health risks. For example, certain PFAS are regulated in drinking water at concentrations measured in parts per trillion (“ppt”), reflecting the extremely low levels at which these substances pose concern. EPA has established Maximum Contaminant Level Goals of 0 ppt for Perfluorooctanoic Acid (“PFOA”) and Perfluorooctane Sulfonic Acid (“PFOS”), recognizing that science indicates there is no level of exposure to these chemicals without risk of health impacts.³³ Research also shows that eating just one standard serving of fish containing 8.41 parts per billion PFOS (the median level of PFOS in freshwater fish in one EPA sampling program) is equivalent to drinking water at 48 ppt PFOS for an entire month.³⁴ Applying a de minimis exemption here contravenes current scientific understanding of PFAS risk.

³¹ RSA 485-A:5-e, I, III.

³² EPA Response to Comments at 30.

³³ 89 Fed. Reg. 32532 (April 26, 2024); U.S. Environmental Protection Agency Office of Water, *Final PFAS National Primary Drinking Water Regulation*, at 5 (Apr. 9, 2024), https://www.epa.gov/system/files/documents/2024-04/pfas-npdwr-presentation_4.9.24_overview.pdf.

³⁴ Nadia Barbo et al., *Locally caught freshwater fish across the United States are likely a significant source of exposure to PFOS and other perfluorinated compounds*, 220 ENV’T RSCH. 1, 6 (2023), <https://doi.org/10.1016/j.envres.2022.115165>.

B. Exempting Imported Articles Creates Massive Data Gaps and Obliterates the PFAS Reporting Requirement.

Collecting all existing and reasonably ascertainable information on PFAS-containing articles is critical to identifying data gaps and fulfilling EPA's obligations under TSCA.³⁵ Without this information, EPA cannot properly assess the scope of PFAS in the marketplace and in our environment.³⁶

By proposing to exempt imported articles from the reporting requirement, EPA in effect proposes to eviscerate the reporting requirement. EPA has already determined that approximately 131,157 companies have imported articles that may contain PFAS since 2011.³⁷ This number makes up a staggering 99.81% of **all** the estimated potentially affected entities.³⁸ Within those 131,157 business entities, EPA estimated 13,116 article importers would be subject to reporting; separately, 253 PFAS manufacturers are expected to be subject to reporting requirements.³⁹ That means that approximately **98.11% of the total entities** with PFAS data to report are article importers. **EPA is not simply proposing a carveout for a subcategory of affected entities—it is, in essence, proposing to gut the rule altogether.**

Exempting imported articles specifically undermines domestic progress in curtailing PFAS proliferation; for example, PFOA and PFOS are no longer manufactured in the U.S. due to their proven toxicity, yet they continue to enter the market via imported consumer products.⁴⁰

EPA itself has recognized that “identifying the extent of the dataset of reasonably available information on manufactured PFAS will be helpful in itself by informing future Agency actions or tailoring specific PFAS-related data gathering activities as needed.”⁴¹

Any financial burden of complying with the reporting requirement for imported articles pales in comparison to the revenue from such imports; according to data acquired by the Census Bureau and cited by EPA, imported articles potentially containing PFAS are worth over \$1.4 trillion per year.⁴² Conducting due diligence to see if documentation of PFAS in such imports exists is a practical and important requirement. And, as detailed below in Section V, the expected costs

³⁵ EPA Response to Comments at 70.

³⁶ *Id.*

³⁷ U.S. Environmental Protection Agency Office of Pollution, Prevention, and Toxics, *Economic Analysis for the Final Rule: TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances*, at vii (Sept. 2023) (RIN 2070-AK67; Docket ID No. EPA-HQ-OPPT-2020-0549) (hereinafter EPA Economic Analysis 2023).

³⁸ *Id.* at 3-26.

³⁹ EPA Economic Analysis 2023 at vii.

⁴⁰ *Per- and Polyfluoroalkyl Substances (PFAS)*, NAT'L CONF. OF STATE LEGISLATURES (Oct. 28, 2025), <https://www.ncsl.org/environment-and-natural-resources/per-and-polyfluoroalkyl-substances>.

⁴¹ EPA Response to Comments at 68.

⁴² U.S. Environmental Protection Agency Office of Pollution Prevention and Toxics, *Initial Regulatory Flexibility Analysis and Updated Economic Analysis for TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances*, at 34–35 tbl.13 (Nov. 2022).

per firm for checking if said firm is subject to the reporting requirements are not only acceptable but urgently needed when considering the benefits of such information.

Moreover, EPA has already taken steps to ease compliance for article importers. In its promulgation of the current rule, EPA created a streamlined reporting form for article importers and issued guidance clarifying that a survey of representative samples of similar articles can satisfy the “reasonably ascertainable” standard when no data exists. Put simply, as EPA emphasized in its finalization of this rule, **“there is no reporting or recordkeeping requirement if an entity has no relevant information.”**⁴³

By proposing an imported articles exemption, EPA also risks undermining its critical role in guiding and supporting state efforts to protect public health and the environment. To date, thirty states have adopted more than 175 policies addressing PFAS in consumer products—many requiring disclosures or banning intentional PFAS use across entire product categories.⁴⁴ These states would greatly benefit from EPA’s leadership to identify which imported articles contain PFAS. Exempting imported articles from reporting requirements would deprive states of essential information and weaken EPA’s responsibility to support nationwide efforts to reduce PFAS exposure.

The imported articles exemption would also deprive municipalities and community members of essential information. For example, in the City of Manchester, New Hampshire, the City’s WWTF and its onsite sewage sludge incinerator receive PFAS-containing influent and sludge, respectively.⁴⁵ The WWTF and incinerator release PFAS into the Merrimack River and surrounding air, causing concern to Manchester residents about resulting health impacts.⁴⁶ The WWTF accepts wastewater from more than 80 industrial users, which could include importers of PFAS-containing articles, but the City has not conducted an industrial user survey to identify the industrial sources discharging PFAS into the WWTF.⁴⁷ Despite the phase-out of PFOA and PFOS in U.S. manufacturing, the WWTF’s influent, sludge, and effluent consistently contain PFOA and PFOS.⁴⁸ Data on PFAS in imported articles at industrial sources in Manchester would better allow the City and the community to evaluate the PFAS contributions of industrial users in Manchester. Exempting imported articles would deprive the City and concerned community members of important data that would support local efforts to secure PFAS monitoring and reduction from

⁴³ EPA Response to Comments at 12.

⁴⁴ *Safer States: Bill Tracker*, SAFER STATES, https://www.saferstates.org/bill-tracker/?status=Adopted&toxic_chemicals=PFAS (last visited Dec. 5, 2025).

⁴⁵ *Comments on Draft NPDES Permit No. NH0100447*, CONSERVATION LAW FOUND., at 3–8 (June 10, 2024), <https://www.clf.org/wp-content/uploads/2024/07/2024-6-10-CLF-Comments-on-Manchester-NH-Draft-NPDES-Permit.pdf>.

⁴⁶ *Id.* at 3–7.

⁴⁷ *Id.* at 5–8.

⁴⁸ *Id.* at 5, 19.

industrial sources that discharge into the City’s WWTF. Of course, this is just one example, as WWTFs across the country receive and discharge PFAS chemicals.⁴⁹

Of all the exemptions, the article importer exemption is the most egregious, as its breadth would negate the very purpose of the reporting requirement—to obtain an accurate picture of PFAS in our marketplace, to inform future decision-making.

C. PFAS Byproducts, Impurities, and Non-Isolated Intermediates Can Be as Harmful to Human Health and the Environment as PFAS that are Manufactured for a Commercial Purpose.

The manufacturing of PFAS involves numerous chemical reactions that can lead to the creation of byproducts, impurities, and non-isolated intermediates, which can then be released into the environment and exposed to humans. To fulfill TSCA section 8(a)(7)’s goal of creating a comprehensive database to better understand the pervasiveness of PFAS usage and associated risks to public health and the environment, EPA must include these PFAS in its reporting requirements.

PFAS byproducts in particular can be as harmful to human health and the environment as PFAS that are manufactured for commercial purposes. As explained by epidemiologist Jane Hoppin, “these [byproduct] chemicals, even though they aren’t used to make new products, are released into air and water and have been found in the blood of people who rely on downstream drinking water.”⁵⁰ In fact, GenX, one of the most toxic and ubiquitous PFAS on the market, originated as a byproduct from the manufacture of PFOA.⁵¹ For years, GenX was released as a byproduct into the Cape Fear River with no oversight or restrictions, contaminating a drinking water source and poisoning nearly 300,000 residents in Eastern North Carolina. GenX was only added to the TSCA Inventory in 2008 when DuPont selected it as a commercial replacement for PFOA.⁵² If EPA exempts similar byproducts, impurities, or non-isolated intermediates from the PFAS reporting rule, it will lack critical information about thousands of dangerous PFAS that people are exposed to every day in their drinking water, air, food, and homes.

Additionally, EPA argues that its proposed byproducts exemption is justified because of the “expected low exposure potential to such noncommercial PFAS.”⁵³ This argument fails for several reasons. First, as EPA previously and correctly noted, whether byproducts, impurities, or non-

⁴⁹ Ruyle et al., *High organofluorine concentrations in municipal wastewater affect downstream drinking water supplies for millions of Americans*, 122 PNAS 1 (Jan. 6, 2025), <https://doi.org/10.1073/pnas.2417156122>.

⁵⁰ Will Atwater, *Hidden PFAS Pollution Uncovered in NC as EPA Proposes Reporting Rollback*, WUNC: NORTH CAROLINA PUBLIC RADIO (Dec. 5, 2025, 9:26 AM), <https://www.wunc.org/ement/2025-12-05/hidden-pfas-pollution-epa-rollback>.

⁵¹ Earthjustice et al., *Comments on TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances; Notice of Data Availability and Request for Comment*, at 12 (ID: EPA-HQ-OPPT-2020-0549) (Dec. 27, 2022).

⁵² Safer Chemicals Healthy Families et al., *Comments on EPA’s Proposed Rule Requiring Reporting and Recordkeeping for Per- and Polyfluoroalkyl Substances under Section 8(a)(7) of TSCA*, at 9 (ID: EPA-HQ-OPPT-2020-0549) (Dec. 27, 2021).

⁵³ 90 Fed. Reg. 50929 (Nov. 13, 2025).

isolated intermediates are likely to result in human or environmental exposures is not a threshold that EPA needs to satisfy for requiring reporting on those substances under TSCA section 8(a)(7).⁵⁴ Second, EPA provides no support for its assertion that exposure to byproducts will be low and, third, even if it were, such exposure could still result in severe health impacts given how toxic, persistent, and bioaccumulative many PFAS are.

Finally, EPA claims that: (1) non-isolated intermediates “are not expected to be released in the environment or handled by workers” “because these substances remain confined within closed systems,”⁵⁵ and (2) “there are likely no PFAS manufactured as impurities domestically, as PFAS are not likely to be unintentionally present in raw materials introduced into a process.”⁵⁶ EPA provides no support for either of these speculative assertions, and what’s more, there is no way to know whether these statements are true without companies reporting on PFAS. Further, EPA’s claim regarding the domestic manufacture of impurities is demonstrably false. As EPA is well aware, Texas-based Inhance Technologies, LLC unintentionally creates PFAS impurities during the fluorination of high-density polyethylene plastic containers, which “are used to package diverse products ranging from fuels to foodstuffs, cosmetics, and cleaning products which consumers and workers use on a daily basis.”⁵⁷ These unintentionally added PFAS then leach from the containers into their contents, “exposing millions of people to PFAS without their knowledge.”⁵⁸

D. R&D Activities Can Involve Significant Environmental Release of and Human Exposure to PFAS.

As EPA has previously stated, “information related to the commercial manufacture of PFAS as R&D substances is necessary to understand the scope of PFAS manufactured in the United States.”⁵⁹ Specifically, knowledge of these R&D activities will provide a better understanding “of industry efforts to develop new PFAS applications or substitutes for existing commercially established PFAS that have raised health and environmental concerns.”⁶⁰ Consequently, exempting such information from the reporting requirements will deprive EPA of critical information that it does not otherwise have because of R&D exemptions under other TSCA rules.⁶¹ Additionally, R&D activities can result in environmental release of and exposure to PFAS, causing harm to

⁵⁴ 88 Fed. Reg. 70537 (Oct. 11, 2023).

⁵⁵ 90 Fed. Reg. 50930 (Nov. 13, 2025).

⁵⁶ 90 Fed. Reg. 50929 (Nov. 13, 2025).

⁵⁷ *EPA Conceals PFAS Health Info as Trade Secret*, PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY (PEER) (Feb. 15, 2024), <https://peer.org/epa-conceals-pfas-health-info-trade-secret/>; *EPA Grants Petition on Three PFAS Found in Fluorinated Plastic Containers*, U.S. ENV’T PROT. AGENCY (July 11, 2024), <https://www.epa.gov/chemicals-under-tsca/epa-grants-petition-three-pfas-found-fluorinated-plastic-containers> (last updated March 21, 2025).

⁵⁸ *EPA Conceals PFAS Health Info as Trade Secret*, PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY (PEER) (Feb. 15, 2024), <https://peer.org/epa-conceals-pfas-health-info-trade-secret/>.

⁵⁹ 88 Fed. Reg. 70523 (Oct. 11, 2023).

⁶⁰ Safer Chemicals Healthy Families, et al., *Comments on EPA’s Proposed Rule Requiring Reporting and Recordkeeping for Per- and Polyfluoroalkyl Substances under Section 8(a)(7) of TSCA*, at 10 (September 27, 2021).

⁶¹ 88 Fed. Reg. 70523 (Oct. 11, 2023).

human health and the environment. It is irrelevant that EPA is exempting only “small quantities” of R&D chemicals because, as discussed above, exposure to even low PFAS concentrations can still result in severe health risks.

Finally, despite what EPA currently argues, including R&D chemicals in the reporting rule will not impede R&D and economic development. As EPA previously acknowledged, the burden on manufacturers to obtain this information is minimal because “manufacturers of R&D substances that have been exempt under other reporting rules should have certain documentation available to support those exemption claims, in accordance with their recordkeeping requirements.”⁶² EPA further reduced the burden on manufacturers by creating a “streamlined reporting option to manufacturers of R&D substances that were manufactured in volumes under 10 kilograms per year, if they do not know or cannot reasonably ascertain information requested on the longer standard form.”⁶³ Thus, the burden on manufacturers is minimal, while the benefit to EPA is significant.

IV. EPA Should Not Change the Scope of Reportable Chemicals, But Rather, Should Amend the Definition of PFAS to Be More Inclusive.

While EPA is not currently proposing changes to the scope of reportable chemicals, it is soliciting comment on this topic.⁶⁴ EPA should not narrow the scope of the PFAS reporting rule by limiting it to certain identified PFAS chemicals because this would violate the explicit directive in TSCA section 8(a)(7) to include *all* PFAS. Moreover, all PFAS are extremely persistent in the environment, and research shows that less-studied PFAS are as harmful as those that are better-understood, such as PFOS and PFOA.⁶⁵ In fact, some may be even more toxic. TSCA section 8(a)(7) was established for the specific purpose of getting a more comprehensive understanding of the pervasiveness of PFAS in commerce and the associated risks to public health and the environment. Limiting the reporting requirements to only certain PFAS would create significant information gaps and would undermine EPA’s ability to fulfill its obligations under TSCA.

While EPA should retain a structural definition of PFAS, it should amend the definition to be more inclusive and to better fulfill the goals of TSCA section 8(a)(7). As other commenters have previously argued, the current definition excludes substances that EPA has itself described as PFAS and conflicts with PFAS definitions adopted by the Organisation for Economic Co-operation

⁶² *Id.*

⁶³ *Id.*

⁶⁴ 90 Fed. Reg. 50932 (Nov. 13, 2025).

⁶⁵ Cheryl Hogue, *Short-Chain and Long-Chain PFAS Show Similar Toxicity, US National Toxicology Program Says*, 97 CHEM. & ENG’G NEWS (Aug. 24, 2019), <https://cen.acs.org/environment/persistentpollutants/Short-chain-long-chain-PFAS/97/i33>; Carol F. Kwiatkowski et al., *Scientific Basis for Managing PFAS as a Chemical Class*, 7 ENV’T SCI. & TECH. LETTERS 532 (2020).

and Development (“OECD”)⁶⁶ and by Congress in other parts of the NDAA.⁶⁷ EPA should adopt a broader PFAS definition, such as “chemicals with at least one fully fluorinated carbon atom.”⁶⁸

V. The Benefits of Expansive PFAS Reporting Outweigh the Costs.

A. The Informational Value of Expansive PFAS Reporting is Massive—and is Undervalued in EPA’s Proposed Rule.

EPA, in its proposed rule, ignores the informational value of the expansive reporting requirements in the current rule. The finalized reporting rule will “increase EPA’s knowledge by providing the agency with significant exposure-related data on PFAS, as well as certain existing health and environmental effects information, and consequently is likely to result in (a) a reduction in the cost of risk-based decision making about a PFAS, and (b) an improvement in the expected outcome of the decisions.”⁶⁹ As EPA stated in 2022, attempts to effectively risk-screen for PFAS have been “greatly hampered by the incomplete and inconsistent nature of available data.”⁷⁰ This grave dearth of information is the backdrop for the finalized PFAS reporting rule.

Put simply, in EPA’s own words: “EPA cannot achieve its goals of preventing and mitigating potential health and environmental concerns of PFAS exposure without better understanding the lifecycle of PFAS in the United States and communicating with communities, individuals, businesses, the media, and tribal, state, and local partners about the known and potential health risks associated with exposure to these chemicals.”⁷¹

B. EPA’s Proposed Exemptions Would Massively Undermine the Completeness and Utility of the Dataset.

By exempting article importers, EPA attempts to exempt **over 98%** of entities subject to reporting requirements under the current rule.⁷² As detailed above, this particular “exemption” is a thinly veiled erasure of the rule itself. Without a full picture of PFAS in our marketplace, regulators cannot accurately weigh the costs and benefits of efforts to limit exposure. Investing in this one-time, comprehensive reporting requirement **now** means less wasteful investments down the road; EPA can then better direct its limited resources toward optimal risk reduction to humans

⁶⁶ *Reconciling Terminology of the Universe of Per- and Polyfluoroalkyl Substances: Recommendations and Practical Guidance*, 7 ORGANISATION FOR ECONOMIC CO-OPERATION & DEVELOPMENT (July 9, 2021), [https://one.oecd.org/document/ENV/CBC/MONO\(2021\)25/en/pdf](https://one.oecd.org/document/ENV/CBC/MONO(2021)25/en/pdf).

⁶⁷ *See, e.g.*, National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 332(c)(3), 133 Stat. 1198, 1314 (2019) (defining PFAS as “substances that are man-made chemicals with at least one fully fluorinated carbon atom”); *see also id.* § 329(b)(2), 133 Stat. at 1312 (defining “polyfluoroalkyl substance” as “a man-made chemical containing a mix of fully fluorinated carbon atoms, partially fluorinated carbon atoms, and nonfluorinated carbon atoms”).

⁶⁸ National Defense Authorization Act for Fiscal Year 2020, Pub. L. No. 116-92, § 332(c)(3).

⁶⁹ EPA Economic Analysis 2023 at 6-2.

⁷⁰ *Id.*

⁷¹ *Id.* at 6-7.

⁷² *Id.* at vii, 3-26; *supra* Section III(B).

and the environment. The proposed exemptions are short-sighted and would hugely curtail the impact of the acquired data.

C. Even if Benefits are Hard to Quantify Precisely, the Costs of PFAS Contamination are Undeniably Staggering.

EPA previously determined that attempting to quantify the economic benefits from expansive PFAS reporting was inappropriate in the context of the Initial Regulatory Flexibility Analysis and updated Economic Analysis.⁷³ Nevertheless, the astronomical costs PFAS produce—both in healthcare and in cleanup—must be considered when weighing the costs and benefits of expansive PFAS reporting. It may be hard to reliably estimate those benefits, but many have reliably estimated the costs of PFAS contamination, see below, and these costs are tremendous enough to justify the burden of a one-time reporting requirement.

i. Existing Estimates Likely Understate the True Toll of PFAS Contamination.

Existing estimates of economic damages from PFAS exposure are substantial but likely understatements of the true toll. Such estimates only cover a subset of PFAS, or focus narrowly on drinking water exposure, and/or leave out key health and environmental outcomes.⁷⁴ Furthermore, the true toll encompasses not only health-related harm, but also ecological impacts, consumer behavior responses, and declines in property value, all of which remain understudied or entirely unquantified.⁷⁵

ii. Daily Exposure Imposes Billions in Healthcare Costs.

Daily exposure to PFAS costs the United States billions in healthcare costs. Researchers at NYU Langone determined that daily exposure to PFAS from consumer items can lead to health harms including cancer, thyroid disease, and childhood obesity, causing an economic burden ranging from **\$5.5 billion to \$63 billion per year**. The breadth of the dollar range reflects the gaps in our understanding of PFAS—gaps caused by a lack of data. Even the most conservative starting point, however, gives economic justification to the costs of the finalized reporting rule.

iii. Cleanup and Remediation Costs are Similarly Extraordinary—and Make a Reliance-on-Cleanup Approach Untenable.

Studies suggest that the cost per kilogram of PFAS removed ranges from \$0.9–\$60 million.⁷⁶ One 2024 global study found that to destroy one year’s worth of PFAS would cost more

⁷³ EPA Response to Comments at 109.

⁷⁴ Leila Safavi & Peter Howard, *Evaluating the Full Cost of PFAS: Considerations for Cost-Benefit Analysis and Regulatory Design*, INSTITUTE FOR POLICY INTEGRITY AT NYU SCHOOL OF LAW, at i (Oct. 14, 2025), https://policyintegrity.org/files/publications/Evaluating_the_Full_Cost_of_PFAS_-_Considerations_for_Cost-Benefit_Analysis_and_Regulatory_Design.pdf.

⁷⁵ *Id.*

⁷⁶ *Daily Exposure to “Forever Chemicals” Costs the United States Billions in Health Costs*, NYU LANGONE HEALTH (July 26, 2022), <https://nyulangone.org/news/daily-exposure-forever-chemicals-costs-united-states-billions-health-costs>.

than the **entire annual global GDP**, amounting to approximately \$106 trillion.⁷⁷ Relying on cleanup alone is not only economically impractical, but impossible. Upstream regulation, founded on a thorough understanding of exposure, is the only path forward. In short, the gargantuan, ongoing healthcare and cleanup costs from PFAS contamination justify the short-term, one-time costs of complying with the current reporting rule.

D. Claimed “Savings” from Proposed Exemptions are Small Compared to the Benefits of Effective Upstream Regulation—and the Aggregate Figures are Misleading.

The savings that EPA now claims will stem from the proposed exemptions pale in comparison to the potential savings from effective upstream PFAS regulation—which is only possible with a thorough accounting of exposure pathways. In its proposed rule, EPA estimates that through the proposed exemptions, small businesses are expected to be relieved of \$703–\$761 million in costs.⁷⁸ This estimated figure—a one-time cost—is misleading. The more accurate picture emerges when the individual estimated burden on each small business is considered. The 2023 Economic Analysis for the finalized reporting rule predicted that for the article importers who would **not** ultimately be subject to reporting requirements, rule familiarization would cost \$802 and compliance determination would cost about \$4,037.⁷⁹ That means that **90% of the article importers, under the finalized rule, would likely spend less than \$5,000, one single time**, to see if they were bringing forever chemicals into the country over the last decade. This is the burden that EPA now proposes is too onerous to justify comprehensive PFAS reporting. Per-firm costs for article importers who **do** have PFAS to report under the finalized rule are estimated to spend on average roughly \$13,600–\$13,800, in total, over time.⁸⁰ Moreover, EPA estimated that the smaller the firm, the fewer the PFAS there would be to report, and the smaller the reporting costs.⁸¹ Thus, if a business is importing only a few reportable compounds, their estimated cost of complying with the finalized rule is lower. Firms who pay significantly more than average to comply with the rule would do so because they are importing significantly more PFAS and thus have more to report. Given the public health and environmental impacts of forever chemicals, such fixed, one-time costs are beyond justified.

E. EPA Has Already Eased Compliance for Small Manufacturers, Article Importers, and R&D Chemical Manufacturers.

First and foremost, information required by the current rule only needs to be reported if it is known or reasonably ascertainable; therefore, the data elements required will allow persons

⁷⁷ Alison L. Ling, *Estimated Scale of Costs to Remove PFAS from the Environment at Current Emission Rates*, 918 SCI. TOTAL ENV'T 1, 6 (March 2024), <https://pubmed.ncbi.nlm.nih.gov/38325453/> (collecting studies on soil remediation).

⁷⁸ 90 Fed. Reg. 50925 (Nov. 13, 2025).

⁷⁹ EPA, Economic Analysis 2023 at 3-3 and 3-10.

⁸⁰ *Id.* at 3-25.

⁸¹ *Id.* at 7-4.

subject to the rule to identify and report available information without undue burden.⁸² Moreover, in the current rule, EPA created a streamlined reporting form for article importers, issued guidance clarifying that a survey of representative samples of similar articles is acceptable, and provided extended deadlines for affected entities.⁸³ EPA also created a streamlined reporting form for manufacturers of R&D substances that were manufactured in volumes under 10 kilograms per year.⁸⁴

In short, the gargantuan, ongoing, and mounting healthcare and cleanup costs from PFAS contamination justify the short-term, one-time costs of complying with the current reporting rule. Comprehensive reporting is the necessary foundation for effective upstream regulation and rational resource allocation. **Importantly, even if EPA does not currently think that the benefits of the reporting rule outweigh its burdens, this does not give the agency the authority to disregard TSCA section 8(a)(7)'s clear mandate to include all PFAS in the reporting rule.**

VI. The 2023 Regulations Provide the Best Reading of the TSCA Statute.

Multiple times, EPA refers back to Executive Order 14219 as a basis for changing the regulation.⁸⁵ Specifically, EPA states that the R&D exemption is being proposed pursuant to Executive Order 14219, “which seeks to reduce regulations that impose costs that ‘impede’ R&D and economic development activities.”⁸⁶ As discussed in Section III(D) of these comments, including R&D chemicals in the reporting rule will not impede R&D and economic development. Additionally, regardless of what Executive Order 14219 says, “[t]he invocation of an [executive order] is an insufficient justification for any policy change and especially insufficient to justify an interpretation of a statute, considering that Executive Orders do not supersede but are rather subject to statutory provisions.”⁸⁷

VII. Conclusion

Thank you for your attention and the opportunity to submit these comments. For the foregoing reasons, we strongly oppose EPA’s proposed exemptions and urge EPA to retain the current reporting and recordkeeping rule.

For any questions, please contact Erica Kyzmir-McKeon at ekyzmir-mckeon@clf.org, or Nora Bosworth at nbosworth@clf.org.

⁸² EPA Response to Comments at 106.

⁸³ EPA Response to Comments at 33.

⁸⁴ 88 Fed. Reg. 70523 (Oct. 11, 2023).

⁸⁵ 90 Fed. Reg. 50924, 50930 (Nov. 13, 2025).

⁸⁶ 90 Fed. Reg. 50930 (Nov. 13, 2025).

⁸⁷ *Planned Parenthood of Greater New York v. Dep’t of Health and Human Services*, No. CV 25-2453, 2025 WL 2840318, at *28 (D.D.C. Oct. 7, 2025).

Sincerely,

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