

Companies Need to Know These Key Exemptions in EPA's Proposed Revision to the PFAS Reporting Rule

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On November 10, 2025, the Environmental Protection Agency (EPA or the Agency) issued a proposed rule to revise the reporting and recordkeeping requirements for per- and polyfluoroalkyl substances (PFAS) under Section 8(a)(7) of the Toxic Substances Control Act (TSCA).^[1] The proposed amendments introduce new exemptions and other changes aimed at easing regulatory burdens while maintaining EPA's ability to gather critical information on PFAS manufacturing and usage.

OVERVIEW OF THE CURRENT PFAS REPORTING RULE

EPA initially issued the PFAS reporting rule under TSCA Section 8(a)(7) on October 11, 2023.^[2] Under the October 2023 final rule, any individual or entity that manufactured or imported PFAS for commercial purposes at any point between 2011 and the end of 2022 must submit a one-time report to the Agency that includes information about PFAS uses, production volumes, disposal, exposures, and hazards. The October 2023 reporting rule did not include any exemptions or reporting thresholds. Indeed, the reporting obligation applied regardless of whether PFAS were present as a standalone substance, part of a mixture, or contained within an article. Further, this requirement is triggered even if the manufacturer or importer was unaware of the presence of PFAS at the time.

Due to stated budgetary constraints and other administrative obstacles, EPA announced delays to the data submission deadlines in September 2024 and May 2025. However, this most recent proposed rule would modify both the scope and the reporting period of the original 2023 PFAS reporting requirements.

PROPOSED EXEMPTIONS

The latest proposed rule includes key exemptions from the PFAS reporting requirements. These proposed exemptions address complaints from the regulated community that the October 2023 rule established an overly burdensome reporting framework.

1. EPA is proposing a *de minimis* concentration exemption for reportable PFAS in mixtures or articles. Specifically, PFAS found in mixtures or articles at concentrations below 0.1% would be exempt from reporting. This exemption applies regardless of total production volume of the mixture or article.

2. EPA is proposing to exempt PFAS imported as part of an article^[3] from the scope of reportable activities.^[4] The Agency has stated that after further review, it believes that manufacturers and importers likely lacked knowledge or reasonably ascertainable information about PFAS content in those articles during the 2011–2022 period.
3. EPA is proposing to exempt the manufacture of PFAS as byproducts, impurities, non-isolated intermediates, or upon incidental exposure, or end use of another substance or mixture from the scope of reportable activities when such substances are manufactured under certain conditions described in 40 C.F.R. § 720.30(h). According to the Agency, EPA is proposing this exemption because it now considers the information unnecessary for fulfilling its statutory obligations and potentially duplicative.
4. EPA is proposing to exempt PFAS manufactured and imported in small quantities for research and development purposes. This proposed exemption has no threshold limit. Per the proposed rule, EPA has now determined that collecting information about PFAS manufactured solely for research and development purposes could impede research and development activities and will not improve the Agency's understanding of the exposures and potential risks of PFAS.

PROPOSED TIMELINE

As it has twice before, EPA is once again changing the reporting period. EPA is proposing to replace the current six-month reporting period (April 13, 2026 to October 13, 2026) with a shorter, three-month submission window that would begin 60 days after the effective date of the final amended rule. According to EPA's rulemaking timeline, the final rule is expected to be issued in June 2026. Additionally, the previously extended deadline for small product importers would be eliminated, aligning with the proposed exemption for imported articles.

NEXT STEPS

The proposed rule is currently open for public comment. EPA is soliciting feedback on a number of issues identified in Section IV of the proposed rule, which include the outlined exemptions, the PFAS definition utilized in the rule (i.e., the scope of reportable chemicals), the proposed technical revisions, and other related issues that could further influence the scope of reporting. Comments must be submitted by December 29, 2025, to Docket #EPA-HQ-OPPT-2020-0549 via www.regulations.gov.

For further information or questions about the new proposed exemptions and potential impacts of the PFAS reporting rule on your business, please contact the authors of this article or your Winston relationship attorney.

[1] <https://www.federalregister.gov/documents/2025/11/13/2025-19882/perfluoroalkyl-and-polyfluoroalkyl-substances-pfas-data-reporting-and-recordkeeping-under-the-toxic>.

[2] 40 C.F.R. § 705; <https://www.federalregister.gov/documents/2023/10/11/2023-22094/toxic-substances-control-act-reporting-and-recordkeeping-requirements-for-perfluoroalkyl-and>.

[3] *Article* means a manufactured item

(1) which is formed to a specific shape or design during manufacture,

(2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and

(3) 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. 40 C.F.R. § 705.3

[4] See 40 C.F.R. §§ 705.5, 705.12, 705.18, and 705.30.

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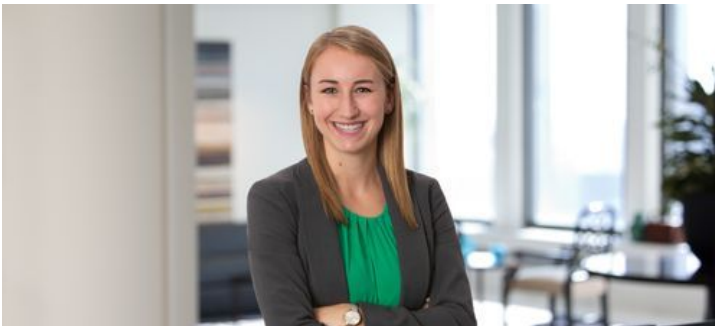
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