

December 6, 2022

Dr. Michal Freedhoff
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Re: Proposed Rule, Environmental Protection Agency; TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances; Notice of Data Availability and Request for Comment; 87 Fed. Reg. 72439; EPA Docket No. EPA-HQ-OPPT-2020-0549 (November 25, 2022)

Dear Dr. Freedhoff:

The undersigned organizations respectfully request that you extend the comment period for the Initial Regulatory Flexibility Analysis (IRFA) and Updated Economic Analysis for the proposed Toxic Substances Control Act (TSCA) section 8 (a)(7) reporting and recordkeeping rule by 30 days.

We appreciate your ongoing consideration of our suggestions in our previously submitted comments on the proposed rule (“[coalition comments](#)”) that the agency more fully assess the anticipated costs of the rule as originally proposed and examine alternatives. However, the current 30-day timeframe for commenting on the IRFA and updated economic analysis is insufficient, especially (but not only) for small businesses, to assess EPA’s revised analysis of the costs and benefits of the proposal and alternatives and to provide meaningful comment. An extension is required to ensure that all stakeholders have more time to respond to the multiple, complex issues for which the agency is seeking public comment, including how it conforms to the requirements of the Regulatory Flexibility Act and Paperwork Reduction Act, and other benefit-cost tradeoffs.

We emphasize that EPA’s notice of data availability indicates that affected small businesses that would subject to the proposed rule “are expected to incur \$863,483,965 in costs.” Relatedly, as EPA acknowledges, “EPA has updated its estimate of costs for the proposed rule as proposed from approximately \$10.8M to \$875M in social costs.” The burden of compliance with this rule requires a thoughtful approach to implement and engagement with the business community to more effectively ensure the practical utility and flow of information.

The agency has solicited specific feedback on several important and complex issues that will require additional time to evaluate, including the following:

- The number of potential small article manufacturers (including importers).
- The number of PFAS that small entities may submit reports for under the rule.

- The number of hours small entities would need to spend on understanding the structural definition of the PFAS.
- Regulatory flexibility alternatives for businesses with less than \$12 million or \$6 million in revenue.

In addition to seeking comments on issues that affect small businesses, EPA is also seeking comment on items in the IRFA that were not available during the proposed rule's public comment period. Stakeholders will need to review more than 200 pages of new economic analyses and other docket materials that were not previously available. EPA is also seeking information from a diverse set of our members, not just small businesses, on important topics including:

- Reporting exemptions such as for articles, research and development, byproducts, impurities, recyclers, and intermediates.
- Potentially duplicative or overlapping reporting requirements that may stem from other regulations.
- Treatment of chemical identity claims and protecting confidential business information.
- When EPA will provide notice regarding the release of confidential business information.
- How EPA will treat generic names that do not have "fluor" in them.

As EPA acknowledges, some of these topics are "items ... that were not available for public comment during the proposed rule's [three-month] comment period." The topics presented are complex and raise very important considerations that our members need to thoughtfully address to help EPA ensure that the regulation meets its intended goals in a manner which is not disruptive and does not impose grossly disproportionate and otherwise inappropriate costs on regulated parties.

We recognize that EPA faces a statutory deadline of January 1, 2023, to issue a final rule. However, the mere fact that EPA chose not to conduct its regulatory flexibility analysis earlier in the process is not a sufficient justification for truncating public comment on important issues on which EPA is seeking meaningful input. EPA has delayed final action on other TSCA final decisions beyond applicable deadlines, as warranted in the administrator's judgment, to achieve proper policy outcomes, in light of resource constraints, and to comply with other applicable legal obligations. We respectfully urge the same approach here. We also note that the comment period overlaps with a time of year when many stakeholders interested in this proposal have pre-existing obligations due to the holiday season. We particularly emphasize that without an extension, EPA will not be able to review all the comments and make needed adjustments to meet its full obligations, including notice-and-comment requirements.

Accordingly, we urge EPA to extend the comment period for at least an additional 30 days.

Thank you for your consideration.

Sincerely,

Alliance for Automotive Innovations
American Apparel & Footwear Association
American Chemistry Council
American Coatings Association
American Forest & Paper Association
American Fuel and Petrochemical Manufacturers
American Petroleum Institute
Flexible Packaging Association
Fluid Sealing Association
National Association of Chemical Distributors
National Association of Manufacturers
National Council of Textile Organizations
National Mining Association
National Oilseed Processors Association
Plastics Industry Association
PRINTING United Alliance
TRSA –The Linen, Uniform and Facility Services Association
U.S. Chamber of Commerce