



January 6, 2023

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

Re: Proposed Rule, Environmental Protection Agency; Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting; 87 *Federal Register* 74379 (December 5, 2022, EPA-HQ-TRI-2022-0270)

Dear Dr. Freedhoff:

The American Chemistry Council and the U.S. Chamber of Commerce respectfully request that the EPA extend the comment deadline for the proposed changes to the chemical release reporting requirements, pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA), for per- and polyfluoroalkyl substances (PFAS) and for certain other substances by 30 days. The proposal goes well beyond the requirements of Section 7321(b) of the National Defense Authorization Act for Fiscal Year 2020 (2020 NDAA) by designating all PFAS added to the Toxic Release Inventory (TRI) as chemicals of special concern¹ and by removing the *de minimis* exemption for supplier notification for all substances designated to be of special concern.

As the Agency has recognized, PFAS represent a broad class of substances with distinct and widely variable physical and chemical properties. The proposal to designate all PFAS subject to reporting under Section 7321(b) of the 2020 NDAA, including those yet to be evaluated by the Agency,² as being of special concern has broad policy and practical implications that require careful consideration. Similarly, the proposal to remove the *de minimis* exemption for supplier notification represents a significant policy change. Additional time is required for stakeholders to review the Agency's rationale for the proposal and to assess

¹ 40 CFR Part 372.28

² Section 7321(b) requires that all PFAS meeting specified criteria be automatically added to the list of substances subject to chemical release reporting.

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its costs and benefits, including impacts on small businesses and considerations relating to the feasibility of compliance.

We are concerned that the agency's estimates of burdens and costs are dramatically understated. For example, EPA does not quantify the costs of supplier notifications or consider the additional effort required to ensure compliance in light of the removal of the de minimis exemption. In light of the proposed rule's similarity to the proposed reporting and recordkeeping requirements for PFAS under the Toxic Substances Control Act,³ moreover, we believe that this rulemaking would likely have a substantial impact on a significant number of small entities. Consideration of these impacts warrants allowing ample time for comment to inform the agency's decisional process.

Sincerely,

Chuck Chaitovitz

Chuck Chaitovitz
Vice President, Environmental Affairs and Sustainability
U.S. Chamber of Commerce

Steve Risotto

Stephen P. Risotto
Senior Director, Chemical Products and Technology Division
American Chemistry Council

³ 86 *Fed. Reg.* 33926 (Jun. 28, 2021) and 87 *Fed. Reg.* 72439 (Nov. 25, 2022). EPA estimates the costs to small businesses subject to the proposed TSCA rule to exceed \$863 million for this one-time reporting requirement.