The Attorneys General of Connecticut, Illinois, California, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Rhode Island, Washington, and Wisconsin

December 22, 2025

Via electronic submission to www.regulations.gov

Administrator Lee Zeldin
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Subject: **Comments on "Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Revision to Regulation," Docket ID No. EPA-HQ-OPPT-2020-0549**

Dear Administrator Zeldin,

The undersigned Attorneys General of Connecticut, Illinois, California, Hawaii, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Oregon, Rhode Island, Washington, and Wisconsin, (collectively, the "Attorneys General" or "States") submit these comments concerning the Environmental Protection Agency's ("EPA" or the "Agency") proposed revisions (the "Proposal") to its regulations under the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.* ("TSCA"), on data reporting and recordkeeping for per- and polyfluoroalkyl substances ("PFAS").[1] The Proposal would modify EPA's existing TSCA PFAS reporting regulations promulgated in October 2023 (the "Reporting Rule").[2]

Under the Proposal, EPA would adopt reporting exemptions that would consume the Reporting Rule, exemptions that the Agency specifically considered and rejected when it issued the current, well-supported Reporting Rule just two years ago. EPA's Proposal marks a complete, unsupported, and unsupportable reversal by the Agency on whether to acquire robust PFAS data under TSCA section 8(a)(7), 15 U.S.C. § 2607(a)(7), that EPA needs to fulfill its statutory mandate to ensure that PFAS do not present an unreasonable risk of injury to health or the environment. In effect, the Proposal would gut the Reporting Rule—by adding exemptions which effectively would reduce the number of responding entities by over 98 percent—and thus impede important data collection. This data is necessary for EPA to evaluate and manage the risks associated with PFAS exposure and to prevent harm to human health and the environment. Additionally, this crucial data is also valuable to our States and the public. EPA fails to provide a reasoned explanation for its sudden reversal and ignores the substantial body of reliable scientific research showing the importance of collecting this data.[3] Furthermore, the proposed exemptions are contrary to the plain meaning of applicable statutory provisions. Despite EPA's claims, the

[1] 90 Fed. Reg. 50,923 (Nov. 13, 2025).
[2] 40 C.F.R. Part 705 *et seq*., promulgated at 88 Fed. Reg. 70,516 (Oct. 11, 2023).
[3] *See FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 515–16 (2009) ("a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy").

exemptions are neither tailored to minimize regulatory burdens upon small manufacturers nor sufficient to address the threat to human health and the environment from PFAS. The Attorneys General urge EPA to abandon its unlawful Proposal and fulfill its congressional mandate under TSCA by continuing to require robust reporting of vital information about toxic "forever chemicals."

I. Background

A. TSCA Purpose and Reform

TSCA, enacted in 1976, directs the EPA Administrator to regulate chemical substances and mixtures for the core purpose of protecting human health and the environment from unreasonable risks.[4] As amended and significantly strengthened in 2016 through the Lautenberg Chemical Safety Act,[5] TSCA instructs EPA to require manufacturers and processors of chemical substances to submit reports and maintain records regarding the production, importation, use, and disposal of chemical substances.[6] Congress further directed EPA to require reporting of all existing information concerning the environmental and health effects of each substance or mixture, as well as information regarding individuals who have been or will be exposed to those substances.[7]

Through these mechanisms, TSCA directs EPA to determine whether certain chemicals pose an unreasonable risk of injury to health or the environment.[8] If a chemical presents such a risk, EPA must regulate that chemical so as to eliminate that risk.[9] To determine whether a chemical substance presents an unreasonable risk, EPA must evaluate the risks from the full range of exposures in the circumstances under which the chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of, without consideration of cost or other nonrisk factors.[10] If EPA determines that an unreasonable risk exists, it must issue a rule imposing one or more of a variety of regulatory requirements to address that risk.[11]

In 2019, Congress further expanded EPA's information collection mandate under TSCA to establish a specialized reporting requirement for PFAS. In the National Defense Authorization Act for Fiscal Year 2020 ("FY2020 NDAA"),[12] Congress directed EPA to require new, targeted PFAS data reporting:

> Not later than January 1, 2023, the Administrator shall promulgate a rule in accordance with this subsection requiring each person who has manufactured a

[4] *See* 15 U.S.C. § 2601(b).
[5] 15 U.S.C. §§ 2601 *et seq*., as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, 130 Stat. 448 (2016).
[6] *See* 15 U.S.C. § 2607(a).
[7] *Id.* § 2607(a)(2).
[8] *Id.* § 2605(a), (b).
[9] *Id.*
[10] *See id.* §§ 2602(4), 2605(b)(4)(A).
[11] *Id.* § 2605(a).
[12] Pub. L. No. 116-92, 133 Stat. 1198 (2019).

> chemical substance that is a perfluoroalkyl or polyfluoroalkyl substance in any year since January 1, 2011, to submit to the Administrator a report that includes, for each year since January 1, 2011, the information described in [TSCA sections 8(a)(2)(A) through 8(a)(2)(G)].[13]

TSCA sections 8(a)(2)(A) through 8(a)(2)(G) require manufacturers and importers to report:

> (A) The common or trade name, the chemical identity, and the molecular structure of each chemical substance or mixture for which such a report is required.
>
> (B) The categories or proposed categories of use of each such substance or mixture.
>
> (C) The total amount of each such substance and mixture manufactured or processed, reasonable estimates of the total amount to be manufactured or processed, the amount manufactured or processed for each of its categories of use, and reasonable estimates of the amount to be manufactured or processed for each of its categories of use or proposed categories of use.
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> (D) A description of the byproducts resulting from the manufacture, processing, use, or disposal of each such substance or mixture.
>
> (E) All existing information concerning the environmental and health effects of such substance or mixture.
>
> (F) The number of individuals exposed, and reasonable estimates of the number who will be exposed, to such substance or mixture in their places of employment and the duration of such exposure.
>
> (G) The manner or method of disposal of each substance or mixture, and any change in such manner or method.[14]

In October 2023, EPA promulgated reporting and recordkeeping regulations—the Reporting Rule—to comply with Congress's mandate.[15] These reporting requirements directly advance TSCA's central purpose of requiring EPA to evaluate and address the risks of PFAS and other toxic chemical substances, based on the best available science.[16]

B. PFAS "Forever Chemical" Risks—The Science

PFAS are a class of synthetic chemicals that are now ubiquitous in the environment. In the 1940s, chemical companies introduced PFAS for commercial purposes in the United States due to their chemical stability. This stability allows items coated with PFAS to resist water, heat,

[13] 15 U.S.C. § 2607(a)(7).
[14] *Id.* § 2607(a)(2)(A)–(G).
[15] 40 C.F.R. Part 705; *see also* 88 Fed. Reg. at 70,516.
[16] 15 U.S.C. § 2625(h), (j)–(k).

stains, and general degradation. PFAS do not readily break down in the environment and, once released into the world, PFAS will migrate through the environment and accumulate in living organisms.[17] This longevity has given PFAS the moniker "forever chemicals." They have been widely incorporated into production processes and countless consumer and industrial products, such as clothing, non-stick cookware, food packaging, car seats and strollers, stain resistant furnishings, and floor waxes. In addition, firefighting foams containing PFAS have been used for decades by the United States military, airports, industrial facilities, and local fire departments.[18] PFAS are so pervasive that most Americans possess a detectable amount of PFAS in their blood.[19]

The ubiquity of PFAS poses a dire threat to public health and to the environment of our States. The science is clear: many PFAS are highly toxic to humans and animals. Some manufacturers have observed and documented the toxic effects of PFAS chemicals for decades.[20] EPA has concluded that peer-reviewed studies have linked PFAS to an ever-growing list of adverse health effects, including increased risk of prostate, kidney, and testicular cancers;[21] adverse impacts upon the liver,[22] the immune system,[23] fetal growth and development,[24] and fertility;[25] as well as hypertension during pregnancy and high cholesterol.[26] Some PFAS are

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[17] EPA, *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas (last updated Nov. 5, 2025).

[18] *See In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, MDL No. 2:18-mn-2873-RMG, 2022 U.S. Dist. LEXIS 168634, at *9 (D.S.C. Sept. 16, 2022).

[19] Agency for Toxic Substances & Disease Registry, *Fast Facts: PFAS in the U.S. Population* (Nov. 12, 2024), https://www.atsdr.cdc.gov/pfas/data-research/facts-stats/?CDC_AAref_Val=https://www.atsdr.cdc.gov/pfas/health-effects/us-population.html; *see also* Wenhui Qiu et al., *Risks of Per- and Polyfluoroalkyl Substance Exposure Through Marine Fish Consumption*, 390 Sci. 1305 (Dec. 2025), https://www.science.org/doi/10.1126/science.adr0351.

[20] *See, e.g.*, *In re Aqueous Film-Forming Foams Prods. Liab. Litig.*, 2022 U.S. Dist. LEXIS 168634, at *28 ("3M conducted from the 1970s forward over a thousand studies related to the potential properties and effects of PFOS and related products on human health and the environment which should have been disclosed to the [EPA] under Section 8(e) of [TSCA].").

[21] EPA, *supra* note 17.

[22] Elizabeth Costello et al., *Exposure to Per- and Polyfluoroalkyl Substances and Markers of Liver Injury: A Systematic Review and Meta-Analysis*, Env't Health Persps. (Apr. 2022), https://pubmed.ncbi.nlm.nih.gov/35475652/; *see, e.g.*, EPA, *IRIS Toxicological Review of Perfluorobutanoic Acid (PFBA, CASRN 375-22-4) and Related Salts*, EPA/635/R-22/277Fa (Dec. 2022), https://ordspub.epa.gov/ords/eims/eimscomm.getfile?p_download_id=545992; EPA, *ORD Human Health Toxicity Value for Perfluoropropanoic Acid (CASRN 422-64-0 | DTXSID8059970)*, EPA/600/R-22/042F (June 2023), https://cfpub.epa.gov/si/si_public_file_download.cfm?p_download_id=547699&Lab=CPHEA.

[23] EPA, *supra* note 17; Haley Von Holst et al., *Perfluoroalkyl Substances Exposure and Immunity, Allergic Response, Infection, and Asthma in Children: Review of Epidemiologic Studies*, Heliyon (Oct. 11, 2021), https://doi.org/10.1016/j.heliyon.2021.e08160; U.S. Dep't of Health & Hum. Servs., Nat'l Toxicology Program, *NTP Monograph: Immunotoxicity Associated with Exposure to Perfluorooctanoic Acid and Perfluorooctane Sulfonate* (Sept. 2016), https://ntp.niehs.nih.gov/sites/default/files/ntp/ohat/pfoa_pfos/pfoa_pfosmonograph_508.pdf.

[24] EPA, *supra* note 17.

[25] EPA, *supra* note 17; Nathan J. Cohen et al., *Exposure to Perfluoroalkyl Substances and Women's Fertility Outcomes in A Singaporean Population-Based Preconception Cohort*, Sci. Total Env't (May 15, 2023), https://pubmed.ncbi.nlm.nih.gov/36801327/; Wei Wang et al., *The Effects of Perfluoroalkyl and Polyfluoroalkyl Substances on Female Fertility: A Systematic Review and Meta-Analysis*, Env't Rsch. (Jan. 1, 2023), https://www.sciencedirect.com/science/article/abs/pii/S001393512202045X?via%3Dihub.

[26] EPA, *supra* note 17.

highly bioaccumulative in the human body, and EPA and others have concluded that miniscule exposures over time are sufficient to cause significant adverse health effects.[27] Additionally and importantly, EPA has concluded that adverse health effects may also result from very low exposures to PFAS that are not highly bioaccumulative (*e.g.*, GenX).[28] When in mixtures, PFAS can have a dose-additive effect.[29]

Many States have repeatedly urged the federal government to act in response to the growing threat of PFAS.[30] The widespread risks caused by the properties and ubiquity of PFAS make it necessary to track even minute quantities. To understand the pathways through which humans are exposed to PFAS—and to identify the chemicals themselves once released into the environment—it is critical to identify each source of PFAS through the reporting required by TSCA section 8(a)(7). The existing Reporting Rule aids in this effort, whereas the Proposal would eviscerate efforts to gather the PFAS data needed to protect human health.

C. Current PFAS Reporting Regulations, 40 C.F.R. Part 705

As mandated by Congress, EPA promulgated the Reporting Rule in October 2023.[31] The regulations require "[p]ersons who have manufactured [PFAS] for commercial purposes,"

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[27] EPA, *Final Human Health Toxicity Assessment for Perfluorooctanoic Acid (PFOA) and Related Salts*, EPA Document Number: 815R24006 (Apr. 2024), https://www.epa.gov/system/files/documents/2024-05/final-human-health-toxicity-assessment-pfoa.pdf; EPA, *Final Human Health Toxicity Assessment for Perfluorooctane Sulfonic Acid (PFOS) and Related Salts*, EPA Document Number. 815R24007 (Apr. 2024), https://www.epa.gov/system/files/documents/2024-05/final-human-health-toxicity-assessment-pfos.pdf; EPA, *IRIS Toxicological Review of Perfluorohexanesulfonic Acid (PFHxS, CASRN 335-46-4) and Related Salts*, EPA/635/R-25/012Fa (Jan. 2025), https://ordspub.epa.gov/ords/eims/eimscomm.getfile?p_download_id=550481; EPA, *IRIS Toxicological Review of Perfluorodecanoic Acid (PFDA) and Related Salts CASRN 335-76-2*, EPA/635/R-24/172Fa (July 2024), https://ordspub.epa.gov/ords/eims/eimscomm.getfile?p_download_id=549465; EPA, *IRIS Toxicological Review of Perfluorononanoic Acid (PFNA) and Related Salts CASRN 375-95-1*, EPA/635/R-24/031a External Review Draft (Mar. 2024), https://ordspub.epa.gov/ords/eims/eimscomm.getfile?p_download_id=548669; *see* Katie Pelch et al., *PFAS-Tox Database* (2021), https://pfastoxdatabase.org/.

[28] EPA, *Human Health Toxicity Values for Hexafluoropropylene Oxide (HFPO) Dimer Acid and Its Ammonium Salt (CASRN 13252-13-6 and CASRN 62037-80-3) Also Known as "GenX Chemicals"*, EPA Document Number: 822R-21-010 (Oct. 2021), https://www.epa.gov/system/files/documents/2021-10/genx-chemicals-toxicity-assessment_tech-edited_oct-21-508.pdf.

[29] *See, e.g.*, Philip E. Goodrum et al., *Application of a Framework for Grouping and Mixtures Toxicity Assessment of PFAS: A Closer Examination of Dose-Additivity Approaches*, Tox. Scis. (Feb. 2021), https://academic.oup.com/toxsci/article/179/2/262/5879299.

[30] *See, e.g.,* Attorneys General of Pennsylvania et al., Multistate Comments on EPA's Fiscal Year 2022 Spend Plan for PFAS (Apr. 13, 2022), https://www.michigan.gov/ag/-/media/Project/Websites/AG/releases/2022/April/State_Comments_on_EPAs_PFAS_Spend_Plan_FINAL_751106_7.pdf?rev=761235fc045d4b9c995b1a4427a2ad3c&hash=DB08B30565068BCA058CB3E5C331694C; Attorneys General of New Jersey et al., Multistate Comments dated Sept. 27, 2021, on EPA's Proposed TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances, 86 Fed. Reg. 33,926 (June 28, 2021), https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0549-0086; Attorneys General of Wisconsin et al., Multistate Comments dated Sept. 17, 2021, on EPA's Drinking Water Contaminant Candidate List 5 Draft, 86 Fed. Reg. 37948 (Jul. 19, 2021), https://www.regulations.gov/comment/EPA-HQ-OW-2018-0594-0076; Attorneys General of Wisconsin et al., Multistate Comments dated May 30, 2023, on Preliminary Regulatory Determination and Proposed Rule; PFAS National Primary Drinking Water Regulation Rulemaking, 88 Fed. Reg. 18,638 (Mar. 29, 2023), https://www.regulations.gov/comment/EPA-HQ-OW-2022-0114-1687.

[31] 88 Fed. Reg. at 70,516.

including importers and small manufacturers, to report specific PFAS information to EPA.[32] EPA considered, but rejected, exemptions during the rulemaking process, reasoning that "this rule is focused on improving EPA's knowledge of commercially manufactured PFAS and their uses . . . [t]herefore, EPA does not believe many of the same reporting exemptions used in other TSCA rules are warranted." Indeed, the very purpose of the Lautenberg Act and the FY2020 NDAA is to gain basic insight and understanding on the proliferation and impact of PFAS in the environment.[33] EPA was unambiguous about this purpose in the 2023 Reporting Rule: "EPA aims to better understand the scope of existing knowledge of the universe of historically manufactured PFAS." The Reporting Rule's broad applicability reflected the nature of Congress's mandate. The decision not to include major exemptions further reflected EPA's carefully considered judgment that information from all sources, including small entities and entities manufacturing only small quantities of PFAS, is valuable and that PFAS pose a grave threat. EPA was well aware that human exposure to even miniscule quantities of PFAS present substantial risks, so it is necessary to trace all PFAS entering our stream of commerce, regardless of origin.[34]

A group of Attorneys General, including many of the undersigned, supported the 2021 proposed rule that was ultimately adopted as the 2023 Reporting Rule,[35] including by supporting the reporting and recordkeeping requirements that the final Reporting Rule contained.[36] The undersigned Attorneys General firmly believe that robust reporting requirements will enable our States to better protect the health and welfare of their residents. Importantly, Congress specifically directed EPA to collect PFAS worker exposure data pursuant to 15 U.S.C. § 2607(a)(2)(F). As EPA noted when proposing the Reporting Rule in 2021, "TSCA section 9(e) requires the EPA Administrator to make information related to exposure or releases available to other EPA offices or federal agencies if such exposures may be prevented or reduced under another law."[37] Therefore, robust collection of PFAS data is vital for preventing worker exposures.

D. Proposed Rollback of TSCA Section 8 Reporting Requirements

Now, just two years after promulgating the Reporting Rule, EPA's Proposal would revive exemptions EPA soundly rejected, which would result in excusing from the reporting requirements the vast majority of entities that TSCA section 8(a)(7) meant to capture. Notably, these same exemptions were requested by industry in a petition filed under TSCA on May 2, 2025.[38] The Proposal violates Congress's statutory mandate in TSCA and directly contradicts

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[32] 40 C.F.R. § 705.10.

[33] *See* 88 Fed. Reg. at 70,541–42 ("there is no comprehensive database of PFAS manufactured in the U.S. that EPA could use to develop more precise estimates. The reporting requirements of this rule will serve to fill this knowledge gap"); *id.* at 70,546 ("the more EPA can base its decisions on actual data rather than on assumptions, the better EPA is able to tailor its risk management decisions to the level of actual risk" and "[u]ltimately, enhancing the risk evaluation process will have positive consequences for human health and the environment").

[34] *See* Pelch et al., *supra* note 27.

[35] Multistate Comment on Proposed Rule, TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances, *supra* note 30.

[36] *See id*. at 15.

[37] 86 Fed. Reg. at 33,929.

[38] Coal. of Chem. Cos., *TSCA Section 21 Petition to Initiate a Proceeding for the Amendment of 40 C.F.R. Part 705 – Reporting and Recordkeeping Requirements for Certain Per- and Polyfluoroalkyl Substances* (May 2, 2025), https://www.epa.gov/system/files/documents/2025-07/25_04088_ao_ex_correspondence_pfas.pdf. The petition did

EPA's own data and prior positions. Furthermore, the unlawful and arbitrary Proposal threatens to hinder States' efforts to address PFAS exposure risks in their communities.

TSCA's plain language requires EPA to promulgate regulations "requiring each person who has manufactured a chemical substance that is a [PFAS] in any year since January 1, 2011, to submit to the Administrator a report."[39] Congress did not grant the Administrator discretion to exempt entire categories of PFAS chemicals that would in effect excuse many persons from this reporting requirement. The Proposal cannot deviate from this plain congressional requirement, which directs *each person* to report, without exception.

Contrary to this clear mandate, the Proposal would create new exemptions to the current PFAS reporting requirements: (1) a so-called *de minimis* exemption for mixtures and articles with PFAS concentrations below 0.1%; (2) an imported articles exemption; (3) exemptions for PFAS manufactured as byproducts, impurities, and non-isolated intermediates; and (4) a research and development exemption.[40] These exemptions dramatically depart from the existing reporting requirements and were already considered and rejected by EPA when promulgating the 2023 Reporting Rule.[41] To justify its reversal, EPA relies on an executive order that directs the Agency to rescind and revise certain regulations.[42] However, this order also recognizes that any changes to regulations must "be implemented consistent with applicable law."[43] EPA cannot simply cite this executive order as a basis for revising its regulations in a manner that is contrary both to TSCA's plain language and the Agency's well-supported prior directives.[44] Moreover, an executive order cannot override a statutory command.[45]

The Proposal does not identify any new circumstances that would justify this arbitrary action. Further, since EPA finalized the Reporting Rule, public health concerns about PFAS have only increased, as scientific studies continue to link these chemicals to serious illness and harm to infants.[46] Regulators need information about the identities of chemicals workers are exposed to, released into the environment, and present in everyday products and the potential hazards of those exposures, releases, and products—the exact information that TSCA requires to be disclosed under the Reporting Rule.

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not identify participating coalition members. The coalition later withdrew the petition after EPA indicated it would revise the 2023 Reporting Rule. The chemical industry was also the proponent of these same exemptions that EPA rejected in the 2023 Reporting Rule. EPA, *Response to Public Comments* at 26, 29-30, 34, 38, Docket No. EPA-HQ-OPPT-2020-0549-0267 (Sept. 2023), https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0549-0267. Prominent PFAS manufacturers were among industry commenters advocating for the exemptions. *See, e.g.*, Docket No. EPA-HQ-OPPT-2020-0549-0016 (Sept. 2023) (Comments from 3M Company), Docket No. EPA-HQ-OPPT-2020-0549-0071 (Sept. 2023) (Comments from The Chemours Company).

[39] 15 U.S.C. § 2607(a)(7).

[40] 90 Fed. Reg. at 50,923.

[41] 88 Fed. Reg. at 70537–38; EPA, *Response to Public Comments* at 26–40, Docket No. EPA-HQ-OPPT-2020-0549-0267 (Sept. 2023), https://www.regulations.gov/document/EPA-HQ-OPPT-2020-0549-0267.

[42] 90 Fed. Reg. at 50,924.

[43] Exec. Order No. 14,219, 90 Fed. Reg. 10,583 (Feb. 19, 2025).

[44] *See infra* Section III.

[45] *E.g.*, *Marks v. Cent. Intel. Agency*, 590 F.2d 997, 1003 (D.C. Cir. 1978).

[46] *See* Robert Baluja et al., *PFAS-Contaminated Drinking Water Harms Infants*, PNAS (Dec. 8, 2025), https://www.pnas.org/doi/abs/10.1073/pnas.2509801122.

II. State Interests in PFAS Reporting and Recordkeeping

A. Attorneys General Have Long Advocated for Federal Regulation of PFAS

EPA's Proposal fails to recognize that the Agency is not the only intended audience for reported PFAS data, despite explicitly acknowledging this in the rulemaking for the 2023 Reporting Rule: "EPA believes that the information obtained as a result of this one-time data collection could also be used by the public, government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential human health or environmental risks."[47] By gutting the Reporting Rule, the Proposal will directly harm States and others who would use this data in their efforts to protect public health. The Attorneys General have long recognized the necessity of federal regulation of PFAS and our contributions to federal rulemaking proceedings on behalf of our States demonstrate that responding to PFAS contamination is a priority.

The Attorneys General have strongly supported EPA's efforts to acquire important threshold information about PFAS under TSCA.[48] In 2021, many of the Attorneys General joined comments in support of the proposed rule that was ultimately adopted in 2023 as the Reporting Rule. The Attorneys General commented that collecting PFAS data was a necessary step to protecting human health and the environment at the state and federal levels.[49] In order to obtain the most complete set of PFAS data possible, the comments asked EPA to strengthen the proposed rule by imposing additional requirements and eliminating exemptions, including:

> (1) defining PFAS broadly to require reporting and recordkeeping for all PFAS chemicals; (2) requiring manufacturers (and importers) to identify the analytical reference standards and laboratory test methods they have developed for PFAS; (3) requiring processors of PFAS in addition to manufacturers and importers to report; (4) ensuring the final rule applies to PFAS-containing "articles" that are imported and those that are or will be used in manufacturing; (5) requiring reporting for covered activities prior to 2011; (6) requiring the reporting of PFAS disposal information; (7) implementing the rule without certain of EPA's regulatory TSCA exemptions; and (8) maximizing the amount of information disclosed to the states and the public.[50]

Many of the undersigned Attorneys General also commented in support of EPA's 2023 proposal for a Significant New Use Rule (the "SNUR") for inactive PFAS on the TSCA inventory.[51] In EPA's response to comments to the proposed rule, the Agency premised the

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[47] 88 Fed. Reg. at 70,547.
[48] Multistate Comment on Proposed Rule, TSCA Section 8(a)(7) Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances, *supra* note 30.
[49] *See id.* at 2.
[50] *Id.* at 2.
[51] Attorneys General of Pennsylvania et al., Multistate Comments dated Mar. 27, 2023, in Response to U.S. Environmental Protection Agency's Proposed Rule: Significant New Use Rules; Per- and Polyfluoroalkyl Substances Designated as Inactive on the Toxic Substances Control Act Inventory, 88 Fed. Reg. 4,937 (Jan. 26, 2023), https://www.regulations.gov/comment/EPA-HQ-OPPT-2022-0867-0014.

inclusion of certain exemptions—for PFAS in byproducts, impurities, and articles—upon its expectation that it would receive information about those PFAS from the Reporting Rule.[52]

The Attorneys General have participated in rulemakings under other authorities as well. Understanding the serious threat posed by PFAS in drinking water, States have sought federal assistance through oversight under the Safe Drinking Water Act. In 2020, many of the undersigned submitted comments supporting EPA's proposal to set drinking water standards for two specific PFAS, perfluorooctanesulfonic acid ("PFOS") and perfluorooctanoic acid ("PFOA"), which EPA announced in its Preliminary Regulatory Determinations for Contaminants on the Fourth Drinking Water Contaminant Candidate List.[53] Attorneys General also submitted comments in support of EPA's proposal to include 29 PFAS in the Fifth Unregulated Contaminant Monitoring Rule[54] and EPA's proposal to add PFAS as a class to EPA's Drinking Water Contaminant Candidate List 5.[55]

In 2024, EPA finalized nationwide drinking water regulations applicable to six types of PFAS.[56] The rule has been challenged in federal court, and many of the Attorneys General filed an amicus brief defending EPA's authority to promulgate the rule and supporting the scientific basis for the PFAS regulations.[57] EPA has since reiterated its support for portions of the rule, but indicated it would rescind the maximum contaminant levels ("MCLs") for four types of PFAS and establish exemptions and delay the implementation date for the other two types of PFAS regulated by the rule.[58]

Recognizing the need to compel cleanup of PFAS-contaminated sites, many of the Attorneys General sought to have EPA designate certain PFAS as hazardous substances under CERCLA, which would facilitate the cleanup of federally owned or operated sites, allow states to recoup the money they spent cleaning up PFAS within their borders, and trigger reporting requirements for certain releases.[59] In 2022, many of the undersigned Attorneys General

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[52] EPA, *Response to Public Comments* at v, Docket No. EPA-HQ-OPPT-2022-0867-0031 (Jan. 2024), https://www.regulations.gov/document/EPA-HQ-OPPT-2022-0867-0031 ("The Agency expects to receive additional information about any ongoing use of PFAS as part of the separate TSCA section 8(a)(7) PFAS reporting rule that was proposed on June 28, 2021 (86 FR 33962 (FRL-7902-01-OCSPP) and finalized on October 11, 2023 (88 FR 70516). As EPA collects evidence of the use of PFAS, potentially including inactive PFAS, EPA may consider making certain exemptions inapplicable in the future.").

[53] Attorneys General of Wisconsin et al., Comment Letter dated June 10, 2020, on the Preliminary Regulatory Determinations for Contaminants on the Fourth Drinking Water Contaminant Candidate List (Preliminary Determination), 85 Fed. Reg. 14098 (Mar. 10, 2020), https://www.regulations.gov/comment/EPA-HQ-OW-2019-0583-0258.

[54] Attorneys General of Wisconsin et al., Comment Letter dated May 10, 2020, on the Proposed Rule, Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 5), 86 Fed. Reg. 13,846 (May 10, 2021). https://www.regulations.gov/comment/EPA-HQ-OW-2020-0530-0111.

[55] Multistate Comments on Drinking Water Contaminant Candidate List 5 Draft, *supra* note 30.

[56] Final Rule, PFAS National Primary Drinking Water Regulation, 89 Fed. Reg. 32,532 (Apr. 26, 2024), https://www.federalregister.gov/documents/2024/04/26/2024-07773/pfas-national-primary-drinking-water-regulation.

[57] Br. for the Attorneys General of Connecticut et al., as Amici Curiae, *Am. Water Works Ass'n v. EPA*, No. 24-1188 (D.C. Cir. Jan. 17, 2025).

[58] EPA, *EPA Announces It Will Keep Maximum Contaminant Levels for PFOA, PFOS* (May 14, 2025), https://www.epa.gov/newsreleases/epa-announces-it-will-keep-maximum-contaminant-levels-pfoa-pfos.

[59] *See, e.g.*, *infra* note 65.

submitted comments in support of EPA's proposed rule to designate PFOA and PFOS, including their salts and structural isomers, as hazardous substances under CERCLA.[60] On May 8, 2024, EPA published a final rule designating PFOA and PFOS as CERCLA hazardous substances.[61] The final rule has since been challenged in federal court, and many of the Attorneys General filed an amicus brief supporting EPA's rationale for the designation.[62]

The Attorneys General have also encouraged Congress to act on PFAS. Prior to the passage of the FY2020 NDAA, many of the undersigned wrote to congressional leadership to request federal legislation to identify and mitigate the harms of PFAS.[63] On October 5, 2020, Attorneys General wrote to the leadership of the House and Senate Armed Services Committee requesting the inclusion of PFAS remediation provisions in the FY2021 NDAA.[64] A year later, many Attorneys General wrote to the leadership of the Senate Environment and Public Works Committee in support of the PFAS Action Act of 2021,[65] followed by letters to Senate leadership on November 24, 2021, and November 8, 2022, to request the inclusion of PFAS remediation provisions in the FY2022 NDAA[66] and the FY2023 NDAA,[67] respectively.

B. Manufacturer PFAS Data Will Support Individual State Actions

The Attorneys General represent States with foundational sovereign interests in protecting their residents and natural resources. For years, our State agencies have labored to identify PFAS in commerce and the environment, so that they may mitigate human exposures and environmental harm where the risks are unacceptable. Our States also rely on EPA to use its substantial statutory authority to identify and collect information on toxic chemical contaminants, which in turn supports and better informs State agency actions.[68] With more information about the sources and identities of PFAS in our jurisdictions, States could better

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[60] Attorneys General of New York et al., Multistate Comments dated Nov. 7, 2022, in Response to Proposed Designation of PFOA/PFOS as CERCLA Hazardous Substances, 87 Fed. Reg. 54,415 (Sept. 6, 2022), https://www.regulations.gov/comment/EPA-HQ-OLEM-2019-0341-0414.

[61] Final Rule, Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances, 89 Fed. Reg. 39,124 (May 8, 2024), https://www.federalregister.gov/documents/2024/05/08/2024-08547/designation-of-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos-as-cercla-hazardous.

[62] Br. for the Attorneys General of New York et al., as Amici Curiae, *Chamber of Com. v. EPA*, No. 24-1193 (D.C. Cir. Jan. 24, 2025).

[63] Attorneys General of New York et al., Letter to Congressional Leadership Concerning PFAS Legislation (July 30, 2019), https://ag.ny.gov/sites/default/files/multistate_pfas_legislative_letter_7.30.19_final.pdf.

[64] Attorneys General of Michigan et al., Letter to House and Senate Armed Services Committee Leadership Concerning PFAS Legislation (Oct. 5, 2020), https://www.michigan.gov/ag/-/media/Project/Websites/AG/multi-states/environment/Letter_2020-10-05_Multistate_Letter.pdf.

[65] Attorneys General of New York et al., Letter to Senate Environment and Public Works Committee Leadership Concerning Legislation to Protect Public Health and the Environment from PFAS (Nov. 15, 2021), https://ag.ny.gov/sites/default/files/pfas_letter_to_epw_11.15.2021.pdf.

[66] Attorneys General of Massachusetts et al., Letter to Senate Leadership Concerning PFAS Provisions in the Fiscal Year 2022 National Defense Authorization Act (Nov. 24, 2021), https://www.mass.gov/doc/multistate-pfas-ndaa-letter-to-the-senate/download.

[67] Attorneys General of Massachusetts et al., Letter to Senate Leadership Concerning PFAS Provisions in the Fiscal Year 2023 National Defense Authorization Act (Nov. 8, 2022), https://stateimpactcenter.org/files/AGActions_Multistate-Attorneys-General-NDAA-2023-PFAS-Letter-to-Senate-Leadership-11.8.2022.pdf.

[68] *Nat. Res. Def. Council v. EPA*, 961 F.3d 160, 169 (2d Cir. 2020) (finding that states have a substantial interest in contaminant data provided by EPA).

identify potential sources, target our testing initiatives, and mitigate the use of, and contamination by, PFAS where possible. The below examples of laws and initiatives in our jurisdictions demonstrate ways in which our States may benefit from EPA's mandate to gather PFAS data from manufacturers.

Connecticut

Since 2019, Connecticut's state agencies have worked to identify PFAS risks, minimize human exposure to PFAS, and prevent future releases of PFAS into the environment under its interagency PFAS Action Plan.[69] The Connecticut Department of Energy and Environmental Protection ("CT DEEP") has conducted targeted testing for PFAS in Connecticut's natural resources, including in surface waters and in finfish tissue, in an effort to determine where PFAS pollution exists and where it originated.[70] To mitigate the presence of existing PFAS, CT DEEP has established remediation criteria for soil and groundwater for certain better-known PFAS.[71] CT DEEP and the Connecticut Department of Emergency Services and Public Protection have also coordinated with other state agencies to identify and remove PFAS-containing AFFF through a statewide takeback program.[72] The Connecticut Department of Public Health has issued health-based drinking water action levels and fish consumption advisories related to certain PFAS.[73]

In 2024, the Connecticut General Assembly passed Public Act 24-59, An Act Concerning the Use of PFAS in Certain Products.[74] The Act imposes notification and labeling requirements for certain consumer products containing intentionally added PFAS.[75] As of January 1, 2028, the Act will prohibit the manufacture, sale, and distribution in Connecticut of fourteen categories of consumer products if such products contain intentionally added PFAS.[76] The Act has also banned the application of any PFAS-containing biosolids as a soil amendment or a fertilizer.[77]

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[69] Conn. Interagency PFAS Task Force, *PFAS Action Plan* (Nov. 1, 2019), https://portal.ct.gov/-/media/office-of-the-governor/news/20191101-ct-interagency-pfas-task-force-action-plan.pdf.
[70] CT DEEP, *PFAS Monitoring in Surface Water and Fish Tissue*, https://portal.ct.gov/deep/water/inland-water-monitoring/pfas-surface-water-and-fish-tissue-monitoring (last updated Feb. 2, 2025).
[71] CT DEEP, *PFAS Information for Environmental Professionals*, https://portal.ct.gov/deep/remediation--site-clean-up/contaminants-of-emerging-concern/pfas-information-for-environmental-professionals (last updated Dec. 22, 2023).
[72] Comm'n on Fire Prevention & Control, *State of Connecticut AFFF Take-Back Program* (May 2022), https://portal.ct.gov/-/media/cfpc/ko/2022/latest-news/muni-fd-afff-drain-rinse-sop-final-2022-05-18.pdf.
[73] Conn. Dep't of Pub. Health, *Per- And Polyfluoroalkyl Substances (PFAS) – Information For Public Water Systems*, https://portal.ct.gov/dph/drinking-water/dws/per--and-polyfluoroalkyl-substances?language=en_US (last visited Dec. 18, 2025); Conn. Dep't of Pub. Health, *Connecticut Department of Public Health issues consumption advisories for certain fish species in 11 waterbodies in Connecticut* (June 15, 2023), https://portal.ct.gov/dph/newsroom/press-releases---2023/fish-advisory?language=en_US.
[74] An Act Concerning the Use of PFAS in Certain Products, Conn. Pub. Act 24-59 (2024); *see* Conn. Gen. Stat. § 22a-903c.
[75] *Id.*
[76] *Id.*
[77] *Id.*; *see* Conn. Gen. Stat. § 22a-903c(f) (subsequently amended by Pub. Act 25-152).

Illinois

Earlier this year, the Illinois General Assembly amended the Illinois PFAS Reduction Act, strengthening this statute in several ways.[78] Importantly, the PFAS Reduction Act amendments direct the Illinois Environmental Protection Agency to gather information on use of PFAS "in consumer products and their potential threat to human health and the environment" and produce a report by August 1, 2027.[79] The report on the potential threats from PFAS must include "an assessment of available scientific data [and] federal statutory or regulatory actions" regarding PFAS.[80] Complete reporting through the federal Reporting Rule is essential to fully assess the presence and risks presented from articles containing PFAS that may be present in Illinois. The amended PFAS Reduction Act also bans the sale or distribution of several types of consumer products containing intentionally added PFAS, including cosmetics and dental floss, effective Jan. 1, 2032.[81]

California

In California, state agencies have been active in identifying the extent of PFAS contamination and the sources of that contamination, regulating PFAS contamination in drinking water, and working with manufacturers to remove PFAS from common product categories. The State Water Resources Control Board ("Water Board") has issued testing orders and obtained data from thousands of sites throughout the state to gauge contamination of drinking water, non-drinking water, soils, and other media,[82] the results of which are available on a publicly accessible website.[83] California's Water Board has also set nonregulatory Notification and Response Levels for PFOA, PFOS, PFBS, PFHxS, and PFHxA.[84] Biomonitoring California, which is a collaboration between several state agencies, has analyzed the blood of thousands of Californians and detected PFAS in nearly all people tested.[85] California's Department of Toxic Substances Control's Safer Consumer Products Program has adopted rules and collaborated with manufacturers to eliminate PFAS from two major product categories: (1) carpets and rugs, and (2) treatments for converted textiles and leathers.[86]

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[78] *See* H.B. 2516, 104th Gen. Assem., Reg. Sess. (Ill. 2025).
[79] 415 ILCS 170/45(c).
[80] *Id*.
[81] *Id*. at 45(a)(1), (2).
[82] *See* State Water Res. Control Bd., PFAS: Non-Drinking Water, available at https://www.waterboards.ca.gov/pfas/non_drinking_water.html (accessed Dec. 12, 2025); State Water Res. Control Bd., PFAS: Drinking Water Resources, available at https://www.waterboards.ca.gov/pfas/drinking_water.html (accessed Dec. 12, 2025).
[83] *See* State Water Res. Control Bd., GeoTracker PFAS Map, available at https://geotracker.waterboards.ca.gov/map/pfas_map (accessed Dec. 12, 2025).
[84] *See* State Water Resources Control Board, PFAS: Per- and Polyfluoroalkyl Substances, https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/pfas.html (accessed Dec. 12, 2025).
[85] *See* Biomonitoring California, Results for Perfluoroalkyl and Polyfluoroalkyl Substances (PFASs), https://biomonitoring.ca.gov/results/chemical/2183 (accessed Dec. 12, 2025).
[86] *See* Dep't of Toxic Substances Control, Safer Consumer Products: Priority Products, https://dtsc.ca.gov/scp/priority-products/ (accessed Dec. 12, 2025).

In addition, the California Legislature has enacted laws restricting the use of PFAS in select categories of products, including plant-based food packaging and cookware,[87] textile articles,[88] juvenile products,[89] cosmetics,[90] menstrual products,[91] and firefighting foam.[92] The California Legislature also recently enacted a law directing California's Division of Occupational Safety and Health to modify its existing worker safety order concerning firefighter personal protective equipment to require such equipment be free from PFAS.[93]

Massachusetts

In April 2022, the Commonwealth published the *Final Report of the PFAS Interagency Task Force*,[94] which recognized and catalogued the vast extent of PFAS contamination in the Commonwealth and that there is no time for delay in addressing the serious risks associated with potential exposures to PFAS. Accordingly, the Task Force proposed a comprehensive set of recommendations that built upon existing efforts to detect and remediate PFAS, prevent PFAS contamination at the source, broaden the scope of PFAS regulation, and support impacted communities.

And the Massachusetts legislature passed a landmark bill, signed into law in 2024, establishing firefighting gear notification requirements and banning PFAS in gear as of January 1, 2027.[95] In advance of the 2027 ban, manufacturers selling firefighting personal protective equipment containing PFAS to purchasers in Massachusetts must provide written notice to the purchaser at the time of sale, stating (i) that the firefighting personal protective equipment contains PFAS chemicals; (ii) the reason for which the firefighting personal protective equipment contains PFAS chemicals; and (iii) the specific PFAS chemicals within the product listed by chemical name and abbreviated name. Manufacturers are required to retain a copy of the notice on file for not less than three years from the date of the purchase and to provide a copy of the notice and associated sales documentation to the Massachusetts Department of Public Health within 60 days of a request for such information.

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[87] *See* Cal. Legis. Info., AB-1200 Plant-based food packaging: cookware: hazardous chemicals,https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1200 (accessed Dec. 12, 2025).
[88] *See* Cal. Legis. Info., AB-1817 Product safety: textile articles: perfluoroalkyl and polyfluoroalkyl substances (PFAS), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1817 (accessed Dec. 12, 2025).
[89] *See* Cal. Legis. Info., AB-652 Product safety: juvenile products: chemicals: perfluoroalkyl and polyfluoroalkyl substances, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB652 (accessed Dec. 12, 2025).
[90] *See* Cal. Legis. Info., AB-2771 Cosmetic products: safety, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2771 (accessed Dec. 12. 2025).
[91] *See* Cal. Legis. Info., AB-2515 Menstrual products: perfluoroalkyl and polyfluoroalkyl substances (PFAS), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2515 (accessed Dec. 12, 2025).
[92] *See* Cal. Legis. Info., SB-1044 Firefighting equipment and foam: PFAS chemicals, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB1044 (accessed Dec. 12, 2025).
[93] *See* Cal. Legis. Info., AB-1181 Firefighters: personal protective equipment, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202520260AB1181 (accessed Dec. 12, 2025).
[94] Mass. Mun. Ass'n, *PFAS in the Commonwealth of Massachusetts: Final Report of the PFAS Interagency Taskforce* (Apr. 2022), https://www.mma.org/resource/pfas-in-the-commonwealth-of-massachusetts-final-report-of-the-pfas-interagency-task-force/.
[95] *See* https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter182.

Minnesota

Minnesota has some of the strongest state-level PFAS-use restrictions in the United States, with laws prohibiting intentionally added PFAS in food packaging, consumer products, certain firefighting foams, and pesticides and other agricultural products. For example, in 2023, Minnesota enacted Amara's Law (Minn. Stat. § 116.943), which phases in bans on the sale or distribution of products containing intentionally added PFAS, starting January 1, 2025, with 11 specific categories such as carpets, cookware, cosmetics, dental floss, and juvenile products, and requiring manufacturers to report PFAS in products by July 1, 2026. By January 1, 2032, virtually all products with intentionally added PFAS will be prohibited in the state unless the use is determined to be a "currently unavoidable use" under state rulemaking, and agencies (Minnesota Pollution Control Agency and Minnesota Department of Agriculture) can expand or enforce these prohibitions and exemptions through regulations.

New Jersey

The State of New Jersey is a pioneer in the study and regulation of PFAS, expending substantial resources and scientific expertise in this effort with the goal of protecting New Jersey's residents and the environment.[96] Beginning in 2006 and through 2009, the New Jersey Department of Environmental Protection ("NJDEP") conducted the country's first statewide study of the occurrence of PFAS in drinking water.[97] The NJDEP has also designed and conducted numerous statewide occurrence studies of environmental media and biological receptors, including surface waters, groundwater, sediment, soils, vegetation, and fish tissue.[98] The NJDEP also spearheaded the development of drinking water and other environmental standards for PFAS, publishing the nation's most protective guidance level for PFOA in drinking water in 2007.[99]

Similarly, following years of intensive research and oversight, the NJDEP established the first formal drinking water standard, an MCL, for any PFAS chemical.[100] The NJDEP also designated PFNA, PFOA, and PFOS as "hazardous substances" under New Jersey's Spill

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[96] New Jersey issued a statewide PFAS strategy in 2025 that describes the State's efforts in more detail and indicates planned steps to further limit risks and damage from these hazardous contaminants. *See* https://dep.nj.gov/pfas/strategy/.

[97] N.J. Dep't Env't Prot., *Determination of Perfluorooctanoic Acid (PFOA) in Aqueous Samples* (Jan. 2007), https://dspace.njstatelib.org/server/api/core/bitstreams/c898e90d-eff3-40aa-95b7deb6f65a3363/content; N.J. Dep't Env't Prot., *Occurrence of Perfluorinated Chemicals in Untreated New Jersey Drinking Water Sources* (Apr. 2014), https://www.nj.gov/dep/watersupply/pdf/pfc-study.pdf.

[98] *See* Sandra M. Goodrow et al., *Investigation of Levels of Perfluoroalkyl Substances in Surface Water, Sediment, and Fish Tissue in New Jersey, USA*, ELSEVIER (Aug. 10, 2020), https://www.sciencedirect.com/science/article/abs/pii/S0048969720323561?via%3; Jennifer Willemsen et al., *Per- and Polyfluoroalkyl Substances in New Jersey Soils: A Statewide Investigation* (Sept. 2025), https://dep.nj.gov/wpcontent/uploads/srp/pfas_soil_survey_report.pdf.

[99] *See* Guidance for PFOA in drinking water at Pennsgrove Water Supply Company (Feb. 13, 2007), http://www.nj.gov/dep/watersupply/pdf/pfoa_dwguidance.pdf.

[100] NJDEP's MCL for perfluorononanoic acid ("PFNA") was finalized in 2018, followed by MCLs for PFOA and PFOS in 2020, four years prior to the EPA's actions. 50 N.J. Reg. 1939(a) (Sept. 4, 2018), 54 N.J. Reg. 1165(b) (June 1, 2020).

Compensation and Control Act and established groundwater and soil standards for these and other PFAS.[101] In addition to its joinder in several actions taken by States in connection with federal PFAS regulation as described herein, New Jersey, along with the North Carolina Department of Environmental Quality and New Mexico's Environment Department, petitioned the Agency to add PFAS compounds as hazardous pollutants under the Clean Air Act.[102] New Jersey has also taken legal and administrative actions against dischargers and manufacturers of PFAS to further accountability and to remedy the damages caused to New Jersey's citizens and the environment. All of these efforts are furthered by the collection of invaluable information about PFAS required under TSCA.

New York

For ten years, New York has been working to identify and mitigate the risks posed by PFAS to human health and the environment. The Legislature, for example, has banned the sale and distribution of apparel, food packaging, and carpets that contain PFAS as an intentionally added chemical[103] and has restricted the sale and distribution of PFAS-containing firefighting foam.[104] The New York State Department of Environmental Conservation ("NYSDEC") and Department of Health ("NYSDOH"), meanwhile, have worked collaboratively to: monitor PFAS in the environment and in humans; identify potential sources of exposure; and eliminate or mitigate exposure pathways.[105] Since 2017, NYSDEC has listed PFOA and PFOS as hazardous substances, thereby subjecting these chemicals to various regulatory requirements,[106] and in 2020, NYSDOH set drinking water MCLs for PFOS and PFOA in public water systems.[107] NYSDEC now leads various initiatives to investigate and remediate PFAS in surface water, groundwater, soil, solid waste, and biosolids.[108] NYSDEC is also developing regulations under New York's Toxic Chemicals in Children's Products Law that will require manufacturers to disclose the use of certain PFAS in children's products.[109]

North Carolina

As home to one of the only PFAS manufacturing facilities in the country, North Carolina is acutely aware of the challenges posed by PFAS contamination and the need for transparency in the commercial use of PFAS. In 2017, North Carolina took decisive action to require Chemours

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[101] *See* 50 N.J. Reg. 334(a) (Jan. 16, 2018), 52 N.J. Reg. 1165(b) (June 1, 2020).
[102] *See* NJDEP, *States Ask EPA to Designate Several PFAS as Hazardous Air Pollutants* (Aug. 29, 2024), https://dep.nj.gov/newsrel/24_00829/.
[103] N.Y. Env't Conserv. Law §§ 27-3301 *et seq.*, 37-0121, -0209.
[104] N.Y. Gen. Bus. Law § 391-U*2.
[105] NYDEC, *A Decade of Progress on PFAS: Summarizing DEC's Continued Response* (Dec. 2025), https://dec.ny.gov/sites/default/files/2025-12/pfasreport.pdf; NYDOH, *Chemicals and Health: New York State PFAS, Exposure and Health Projects* (Jan. 2025), https://www.health.ny.gov/environmental/chemicals/chemicals_and_health/.
[106] 6 NYCRR § 597.3; NYDEC, *Hazardous Substances Identification, Release Prohibition, and Release Reporting* (Mar. 3, 2017), https://dec.ny.gov/regulatory/regulations/adoption-of-final-rule-6-nycrr-part-597.
[107] NYDOH, *Public Water Systems and New York State Drinking Water Standards for PFAS and Other Emerging Contaminants* (Apr. 2025), https://www.health.ny.gov/environmental/water/drinking/docs/water_supplier_fact_sheet_new_mcls.pdf.
[108] N.Y. Dep't of Env't Conservation, *supra* note 105.
[109] *Id.* at 6.

Company to address its release of PFAS into North Carolina's air, water and soil and address the widespread contamination of thousands of private drinking water wells throughout North Carolina's Lower Cape Fear Region.[110] Eight years after the problem was identified, work remains ongoing to provide relief to communities impacted by the Chemours facility's contamination.

While the spotlight on PFAS in North Carolina arose through the Chemours facility, the issue of PFAS is much larger. Indeed, PFAS compounds from a variety of sources have been detected in North Carolina's ambient air, drinking water sources, ground water, surface water, soil, biosolids, and aquatic life across the state. In 2022, the North Carolina Department of Environmental Quality developed its Action Strategy for PFAS to address the problem in a comprehensive manner.[111] Pursuant to this Strategy, NCDEQ has sampled 50 municipal and county water systems. Of those, 42 systems were identified as having PFAS concentrations above MCLs established by EPA.[112] NCDEQ estimated initial treatment costs could range from $661 million to $1.3 Billion for the municipal systems sampled.[113] Many other water systems are voluntarily monitoring for PFAS, and NCDEQ has sampled hundreds of smaller water systems to better assess PFAS contamination on a statewide basis.[114] More than 300 water systems in North Carolina have PFAS levels that exceed the MCLs, affecting approximately 3.5 million residents.[115] Additionally, NCDEQ oversees a state-funded private well sampling and alternative drinking water replacement program to provide relief to rural well owners.[116] This program has tested hundreds of homesites near wastewater discharge locations, biosolids land application sites, landfills, airports, fire training grounds and many others. The affected communities have been placed on bottled water while alternate water supplies are secured. NCDEQ has also required PFAS information from new facilities and industries; added permit conditions as appropriate to address PFAS air emissions or wastewater discharges to require disclosure of data and additional monitoring; and required solid waste sanitary landfills to include PFAS analyses of all regular groundwater, surface water and leachate samples. This year, the North Carolina Environmental Management Commission adopted numeric standards for three PFAS in groundwater.[117]

North Carolina has invested over fifty million dollars to fund academic research to better understand the risks posed by PFAS contamination in North Carolina and the remedial strategies

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[110] NCDEQ, Chemours Consent Order, https://www.deq.nc.gov/news/key-issues/genx-investigation/chemours-consent-order (last visited Dec. 7, 2025)
[111] NCDEQ, Action Strategy for PFAS (June 7, 2022), https://www.deq.nc.gov/genx/nc-deq-action-strategy-pfas/open.
[112] NCDEQ, Fact Sheet: Addressing PFAS in North Carolina (2023), https://www.deq.nc.gov/genx/fact-sheet-pfas-nc-2023/open.
[113] *Id.*
[114] *Id.*
[115] *Id.; see also* Rebecca Sadosky, *Presentation to the EMC: Federal PFAS Rule & North Carolina Public Water Systems* (May 9, 2024), https://edocs.deq.nc.gov/WaterResources/DocView.aspx?dbid=0&id=3283140&cr=1.
[116] NCDEQ, PFAS Treatment System Assistance Program, https://www.deq.nc.gov/pfas-treatment-system-assistance-program (last visited Dec. 18. 2025).
[117] 15A NCAC 2L .0202 (h) (2025). In the absence of such numeric standards, under North Carolina's groundwater rules, substances that are not naturally occurring and for no numeric standard is specified, are not permitted in concentrations at or above the practical quantitation limit. 15A NCAC 2L .0202(c).

that can be implemented to address it.[118] This represents the largest legislative funding commitment for PFAS academic research in the nation.[119]

Oregon

Upon learning of PFAS contamination in Oregon in 2011, Oregon's state agencies, nonprofit organizations, community groups, and other interested parties have worked to identify PFAS contamination, sources, concentrations, risks, exposure routes, hazards, and public and environmental health impacts. Oregon state agencies have since updated existing fish consumption advisory for resident fish in the Columbia Slough to account for PFOS contamination,[120] assisted USGS in collecting PFAS concentration data in the lower Columbia River and the lower Willamette River in Oregon,[121] developed an Oregon Department of Environmental Quality Agency-wide PFAS Strategic Plan to guide the agency in addressing PFAS issues across the state,[122] implemented rulemaking in the Cleanup Program to include some PFAS as hazardous substances in Oregon Administrative Rule 340-122-0115,[123] designated PFOS as one of the chemicals of high concern under the Oregon Toxics-Free Kids Act, and prohibited the sale or distribution of foodware containers or cosmetics containing intentionally added PFAS.[124]

Washington

Washington State is prioritizing preventing PFAS pollution and reducing exposure to people. Our Safer Products for Washington program evaluates and regulates PFAS in consumer products through rulemaking. We already have reporting requirements for PFAS in outdoor furniture, apparel intended for extreme uses, floor waxes and polishes, ski waxes, firefighting personal protective equipment and cookware.[125] We use information about PFAS use in products to make informed choices about priorities and potential safer alternatives. We also have a technical assistance program to help businesses voluntarily move away from PFAS and other toxics. Information about PFAS use helps us identify sources and take actions based on data.

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[118] Claire Revere, *North Carolina Expands PFAS Research Capacity Through Collaboratory's $3 Million Investment* (Apr. 2, 2024), https://collaboratory.unc.edu/news/2024/04/02/north-carolina-expands-pfas-research-capacity-through-collaboratorys-3-million-investment/.
[119] *Id*.
[120] Oregon Dep't of Env't Quality, Northwest Region, *Office Record of Decision Remedial Action Approach for Columbia Slough Sediment Portland, Oregon 2005* (Nov. 7, 2019), https://www.deq.state.or.us/Webdocs/Controls/Output/PdfHandler.ashx?p=80616036-1b29-45ab-9024-ad9fcacbe06f.pdf&s=ROD%20for%20Columbia%20Slough,%20July%202005.pdf.
[121] Sean E. Payne et al., *Per- and Polyfluoroalkyl Substances (PFAS) and Wastewater Indicator Compounds Measured in Polar Organic Chemical Integrative Samplers (POCIS), and Cyanotoxin Concentrations Measured in Solid Phase Adsorption Toxin Trackers (SPATTs), in the Lower Columbia River Estuary, Oregon and Washington, 2023: U.S. Geological Survey Data Release* (June 24, 2025), https://doi.org/10.5066/P1NIA7DW.
[122] Oregon Dep't of Env't Quality, *PFAS Strategic Plan* (June 2025), https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6923405/File/document.
[123] Or. Admin. R.340-122-0115.
[124] Oregon Toxic-Free Kids Act, ORS § 431A.250–431A.280; ORS § 459.465–459.477.
[125] Wash. Dep't of Ecology, *Safer Products for Washington Compliance and Reporting*, https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/washingtons-toxics-in-products-laws/safer-products/compliance-and-reporting (last visited Dec. 19, 2025).

We are focused on pollution prevention because once in the environment PFAS are incredibly difficult to clean up. While less than 10 percent of Washington's public drinking water is contaminated with PFAS, we still estimate that it will cost nearly $1 billion to clean up.[126] Knowing about uses of PFAS gives us the opportunity to identify potential sources of contamination before they become a problem.

III. EPA's Proposal Violates TSCA and Is Arbitrary and Capricious

EPA's Proposal threatens to eviscerate the 2023 Reporting Rule, directly contradicting Congress's mandate under TSCA section 8(a)(7) for information gathering.[127] Section 8(a)(7) requires a one-time disclosure of known or reasonably ascertainable information about PFAS, much of which is likely unavailable to the Agency.[128] After twice delaying the reporting period on the eve of submissions,[129] EPA has reversed course and now proposes abandoning most of this PFAS data ostensibly to reduce the regulatory burden from this one-time reporting requirement.[130] But EPA does not propose to relieve just *some* of the regulatory burden; it proposes to relieve nearly *all* of the burden. By EPA's own estimate, the number of reporting entities which would report any responsive information at all if the exemptions were applied would be reduced by over 98 percent.[131] Among the remaining reporting entities, much less data would be provided because of the exemptions.

The Proposal is unlawful. TSCA mandates that EPA collect available data from "*each person*" who has manufactured PFAS since 2011.[132] EPA has no authority to disregard this unambiguous instruction or to propose exemptions that swallow the rule. EPA must follow the statute's plain language and require disclosures from all entities included within the scope of TSCA section 8(a)(7), without exception.[133]

EPA has also failed to explain its reasons for embracing exemptions it previously rejected. EPA cites no change in law or fact to justify abandoning most of the PFAS data reporting requirements. EPA reverses its prior positions without reasoned explanation and relies on weak or implausible arguments to propose exemptions that are individually unjustifiable and

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[126] Wash. Dep't of Ecology, *Who Pays The Price? The Growing Costs of PFAS Pollution* (Nov. 2025), https://apps.ecology.wa.gov/publications/documents/2504080.pdf.
[127] 15 U.S.C. § 2607(a)(7).
[128] *E.g.*, 88 Fed. Reg. at 70,522 ("EPA does not otherwise have the information outlined in TSCA section 8(a)(7) on PFAS within imported articles . . . .").
[129] *See* Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Change to Submission Period, 90 Fed. Reg. 20,236 (May 13, 2025).
[130] 90 Fed. Reg. at 50,924 (citing the justification for this rule change as Executive Order 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative," and "the Administration's priorities").
[131] EPA, Econ. & Pol'y Analysis Branch, *Economic Analysis for the Proposed Rule entitled: "Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping under the Toxic Substances Control Act (TSCA); Revision to Regulation" (RIN 2070-AL29)* (Oct. 2025) (noting reduction in estimated respondents submitting reportable information from 13,370 to 255).
[132] 15 U.S.C. § 2607(a)(7).
[133] *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024).

not tailored to the PFAS information-gathering needs of EPA, the States, and the general public. EPA's Proposal is thus arbitrary and capricious, and EPA must abandon this effort.[134]

A. EPA Cannot Justify a *De Minimis* Exemption For PFAS

The Attorneys General strongly oppose EPA's Proposal to create a purportedly *de minimis* exemption for "reportable PFAS in mixtures or articles under which PFAS concentrations below 0.1% would be exempt from reporting."[135] EPA claims an inherent authority to create *de minimis* exemptions where "the burdens of regulation yield a gain of trivial or no value."[136] To begin, EPA does not possess the authority to contradict section 8(a)(7)'s command to require a report from "*each person* who has manufactured [PFAS]."[137] But even if EPA had the authority to create *de minimis* exemptions for such purposes, it does not have authority to create this exemption. EPA has made no showing that data on PFAS concentrations below 0.1% would "yield a gain of trivial or no value," and the science suggests the opposite.

By proposing the 0.1% threshold, EPA implicitly argues that concentrations of PFAS below 0.1% are, in fact, *de minimis*: that they are *trivial* or of *no value*. This notion is unsupportable. EPA has not provided any evidence showing, for example, that concentrations of PFAS below a certain threshold do not pose a risk to human health or the environment, nor could it, as the implementation of TSCA section 8(a)(7) would be the first time EPA has ever collected comprehensive data on PFAS in U.S. commerce. In fact, for the purposes of this one-time information gathering rule, the purportedly *de minimis* data is essential because it will inform EPA and other regulators about the presence of PFAS in the United States, including chemical identities, environmental and health effects, and information about disposal, among other important topics, and EPA is not limited to requiring such reporting only when a particular concentration threshold is exceeded.[138] Only by first obtaining the information required under the Reporting Rule could EPA reasonably determine whether, and at what concentration, a *de minimis* standard at which reporting would be of trivial or no value might exist. In other words, EPA cannot know what it does not know.[139]

At this time, abundant, peer-reviewed science does not support the notion of designating any quantity of PFAS as *de minimis* for purposes of informing risk management decisions, and EPA has regulated PFAS accordingly. For example, EPA recently affirmed its intent to retain existing drinking water regulations that impose MCLs for certain PFAS—PFOA and PFOS—at 4

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[134] *See FCC*, 556 U.S. at 515.
[135] 90 Fed. Reg. at 50,926.
[136] *Id*. (citing *Env't Def. Fund v. EPA*, 82 F.3d 451, 466 (D.C. Cir. 1996)).
[137] 15 U.S.C. § 2607(a)(7) (emphasis added).
[138] *Id.* § 2607(a)(2). "[TSCA Section 8(a)(7)] does not direct EPA to limit its scope of PFAS information collection to those produced in certain quantities or concentrations. As has been widely noted, some PFAS exhibit properties that are of concern to human health and the environment (including long-chain perfluoroalkyl carboxylate and perfluoroalkyl sulfonate substances, also subject to a TSCA section 5 Significant New Use Rule), even in small quantities or concentrations." EPA, *Response to Public Comments*, *supra* note 41, at 30 (explaining why *de minimis* exemption is not appropriate for PFAS reporting).
[139] *NRDC*, 961 F.3d at 174 (rejecting an unraised *de minimis* argument for an exemption under a mercury reporting rule because "it is difficult to see how it would be possible to know [whether the quantity is *de minimis*] without the very reporting that the exemption eschews").

parts per trillion ("ppt"), with MCL goals of zero ppt.[140] For context, 4 ppt is equivalent to a drop of water in five Olympic-sized swimming pools.[141] It is EPA's longstanding practice to pursue MCL goals of zero ppt for known or likely linear carcinogenic contaminants, recognizing that even extremely small exposures to toxic chemicals can be consequential.[142] By contrast, the Proposal here suggests a *de minimis* exception of 0.1%, which is equivalent to one part per thousand.[143] That would be a quantity one billion times greater than 1 ppt, a substantially large and consequential number in the PFAS context.

In support of a *de minimis* exemption, EPA also argues that manufacturers lack readily available information about small concentrations of PFAS because they were not otherwise required to report on PFAS at those quantities under other reporting regimes.[144] But that is an argument *against* a *de minimis* exemption and exactly why this information should be reported. EPA should require manufacturers to supply this information under the one-time reporting rule because it has not otherwise been produced; "exempting substances that were not previously reported under other TSCA rules would hinger [EPA's] effort[s]" to better understand the universe of PFAS in commerce.[145] Concerns that manufacturers may not have this information ignore TSCA section 8(a)(7)'s information-gathering purpose and overstate the potential regulatory burden, since reporters are only required to provide known or reasonably ascertainable information.[146] Moreover, manufacturers are in the best position to know which PFAS they have created and the properties of those PFAS.[147]

The Attorneys General do not support creating reporting exemptions when manufacturers may possess information important to the public welfare. As EPA recognizes in the Proposal, "PFAS are typically present at low concentrations in mixtures," so the proposed *de minimis* exemption will dramatically reduce the data collected under the Reporting Rule.[148] And, as EPA noted in the 2023 Reporting Rule, "some manufacturers may be aware of PFAS in their products or mixtures at levels far below 0.1%."[149] Ignoring the numerous ways that PFAS can enter the environment, even in small amounts, frustrates TSCA's function.[150]

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[140] EPA, *supra* note 58.
[141] U. S. Air Force, Fact Sheet: Department of the Air Force Response to PFAS (PFOS/PFOA) (May 2021), https://www.afcec.af.mil/Portals/17/documents/Environment/Emerging%20contaminants/PFOS%20PFOA%20Fact%20Sheet%20Final_210528.pdf?ver=8mKrPmAepRLzbOBkElxQqQ%3D%3D.
[142] 89 Fed. Reg. at 32,563.
[143] The Proposal also invites comment on a 1% *de minimis* exception (90 Fed. Reg. at 50,932), as discussed in Section III.F, *infra*.
[144] 90 Fed. Reg. at 50,927.
[145] 88 Fed. Reg. at 70,538.
[146] 15 U.S.C. § 2607(a)(2).
[147] 88 Fed. Reg., at 70,521 ("EPA believes that industry possesses a greater knowledge than EPA about its own supply chain and operations related to the chemical substances it manufactures.").
[148] 90 Fed. Reg. at 50,927.
[149] EPA, *Response to Public Comments*, *supra* note 41, at 31.
[150] *See* 15 U.S.C. § 2605(b).

B. EPA Must Collect Data on Imported Articles

EPA's Proposal would exempt any PFAS imported into the United States as part of an article.[151] This exemption would arbitrarily exclude potentially significant sources of PFAS data even though EPA offers no basis for concluding that such PFAS could not present a potential hazard to human health and the environment. EPA has not presented any reasonable explanation for its reversal on collecting data from article importers, and it must continue to seek any available PFAS data from those entities. Whether a PFAS chemical causes environmental harm or human health effects is not related to whether it is imported or manufactured domestically, and arbitrarily excluding this category of PFAS chemicals would enable their entry into commerce, and our States, with no regulatory oversight.

As with the *de minimis* exemption, EPA contends that article importers are unlikely to have reportable information because this data was not previously required by other reporting rules.[152] But as addressed above,[153] that observation does not support excluding this data from the Reporting Rule; it actually reinforces the need to obtain this information, which is otherwise unavailable to EPA, the States, and the public.[154]

The Proposal attempts to justify the imported articles exemption under the erroneous assumption that required reporting on imported articles would be duplicative of the information reported by non-importing manufacturers.[155] But that claim is unsupported and unsupportable. First, EPA's argument is only applicable to re-imported PFAS, *i.e.*, PFAS that were exported and then re-imported as part of an article.[156] It ignores the likelihood that entities will import PFAS-containing articles from overseas manufacturers that are not subject to the Reporting Rule. Second, the Proposal does not recognize that entities at different places along the supply chain have access to different information. EPA previously made this observation in the Reporting Rule rulemaking to support the inclusion of imported articles.[157] Finally, the Proposal assumes that the only relevant reportable information concerns "processing and use . . . for [] manufactured PFAS, such as any incorporation in articles."[158] TSCA section 8(a)(7), however, requires reporting on a far broader scope of information, including environmental and human health impacts and disposal.[159] EPA does not present any reason to believe that an article importer would not have

[151] 90 Fed. Reg. at 50,928.
[152] *Id*.
[153] *Supra* section III.A.
[154] 88 Fed. Reg. at 70,535 ("Further, with respect to comments claiming that the inclusion of articles will necessarily result in significant data gaps, EPA respectfully points out that there is no current database with comparable information on PFAS in commerce, including within articles, over the reporting timeframe.").
[155] 90 Fed. Reg. at 50,928; *see also* 15 U.S.C. § 2607(a)(5)(A).
[156] 88 Fed. Reg. 70,535 (addressing comments raising the duplicative reporting argument for re-imported PFAS under the 2023 Rule).
[157] *Id*. ("[I]nformation related to the known industrial or consumer uses of a PFAS within an article may be clearer to the person who re-imports a PFAS within a larger complex product than it is to the person who first manufactured the PFAS within the article").
[158] 90 Fed. Reg. at 50,928.
[159] 15 U.S.C. § 2607(a)(2).

relevant information about the downstream impacts and life cycle of PFAS beyond what is reported by a PFAS manufacturer.[160]

The Proposal also implausibly interprets TSCA section 8(a)(7) to mean that EPA *cannot* collect data on PFAS-containing articles because the FY2020 NDAA directed EPA to collect data from each manufacturer of a "chemical substance that *is a [PFAS]*."[161] EPA already addressed this argument when it finalized the Reporting Rule.[162] As EPA noted then, the language of the FY2020 NDAA constitutes a congressional mandate to collect information about PFAS, but it does not impose a limitation upon the information that EPA may collect. Pursuant to the Agency's authority under TSCA section 8, EPA may seek reporting on chemicals in articles, as demonstrated in other rules.[163] Furthermore, there is no logical basis to exclude PFAS-containing articles from the Reporting Rule—exempting imported articles would allow PFAS to enter the stream of commerce undetected and it would unreasonably disregard a potentially important source of data. EPA can and should continue to seek all available information about PFAS in all articles, including imported articles, so that it may satisfy its statutory mandate to ensure that PFAS do not present an unreasonable risk of injury to health or the environment.

C. EPA Must Collect Data on Byproducts, Impurities, and Non-Isolated Intermediates

EPA's Proposal would generally "exempt the manufacture of PFAS as byproducts, impurities, non-isolated intermediates . . . from the scope of reportable activities . . ."[164] The States strongly oppose EPA's proposal to include new exemptions for byproducts, impurities, and non-isolated intermediates from the requirements of the Reporting Rule for PFAS.

In proposing these exemptions, EPA fails to consider that PFAS in the form of byproducts, impurities, and non-isolated intermediates, can still be emitted into the environment and present in consumer and commercial products, where they can cause harm to human health. Rather than assessing the environmental impact, EPA argues that its proposed exemptions "reflect a practical application of TSCA . . . under which EPA shall, to the extent feasible, apply reporting obligations only to those persons likely to have relevant information," asserting that "EPA has historically exempted such manufacturing activities . . . from the scope of reporting obligations under TSCA sections 5 and 8."[165]

That approach gets it backward—it is precisely because certain manufacturing activities have been historically exempted from TSCA reporting that EPA lacks knowledge about the

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[160] 88 Fed. Reg. at 70,521–22 (EPA also rejected an exemption for imported articles under TSCA section 8(a)(5)(A) because "EPA does not otherwise have the information outlined in TSCA section 8(a)(7)" and "EPA cannot know what requested information is 'reasonably ascertainable' to all article importers without knowing the full range of potentially available information to be reported.").
[161] 90 Fed. Reg. at 50,928 (emphasis in original).
[162] *See* 88 Fed. Reg. at 70,534–36.
[163] *Id.* at 70,516 (EPA's response to comments cited other section 8 rules that include reporting on articles, such as the Preliminary Assessment Information Reporting rule (40 C.F.R. Part 712) and the Health and Safety Data Reporting rule (40 C.F.R. Part 716)).
[164] 90 Fed. Reg. at 50,928.
[165] *Id*.

presence of PFAS in these manufacturing activities. The rules exempting these categories from reporting concern chemicals already known to EPA.[166] This is not the case with PFAS, where EPA needs "to better understand the universe of commercially manufactured PFAS in the United States."[167] Because of this knowledge gap, EPA must collect information for PFAS in impurities, byproducts, and non-isolated intermediates; there are likely PFAS chemicals that EPA is unaware of because of existing exemptions on manufacturing activities.[168] Recognizing this knowledge gap, EPA has increasingly scrutinized PFAS under TSCA regulations and sought to discover information about how these chemicals can be used in the very activities that it now proposes to exempt, despite those activities contributing to human exposure.[169]

In addition to these fundamental issues, EPA fails to adequately explain its proposed changes to the Reporting Rule for each individual type of manufacture.

Byproducts

EPA's Proposal would exempt PFAS "that are solely manufactured as a byproduct," in particular, "any byproduct not used for commercial purposes."[170] TSCA regulations define byproduct as "a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s)."[171] This proposed exemption is not appropriate for an information gathering rule. The Reporting Rule and TSCA general information-gathering rule regulations specifically note that "byproducts . . . may, or may not, in themselves have a commercial value."[172] EPA's proposal to exempt reporting requirements for "PFAS manufactured as byproducts and without subsequent commercial use" would undermine the Agency's statutory mandate to gather information on PFAS.

EPA also posits that imposing TSCA reporting requirements on a byproduct is unnecessary "because of the expected low exposure potential to such non-commercial PFAS."[173] However, EPA offers no evidence to support this statement, especially given its earlier statement in 2023 that "PFAS that have been linked to adverse health effects have been coincidentally manufactured as byproducts; notable examples include GenX chemicals hexafluoropropylene oxide dimer acid and its ammonium salt."[174] EPA's Proposal fails to address why the Agency has reversed its opinion here.

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[166] *E.g.*, 40 C.F.R. § 711 *et seq.*, the Chemical Data Reporting rule, which applies to a subset of chemicals already on the TSCA Inventory.
[167] EPA, *Response to Public Comments*, *supra* note 41, at 36.
[168] 88 Fed. Reg. at 70,538.
[169] *See, e.g.*, EPA, *Response to Public Comments*, *supra* note 52, at v; 75 Fed. Reg. at 4,295 (EPA excluded certain PFAS from being eligible for a TSCA polymer exemption in part because it could not conclude generally that these polymers will not present an unreasonable risk to human health and the environment); EPA, *PFAS Low Volume Exemption Stewardship Program*, https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/pfas-low-volume-exemption (last updated Sept. 3, 2025) (EPA renewed a cooperative TSCA program with companies to voluntarily withdraw all previously granted low-volume exemptions for PFAS).
[170] 90 Fed. Reg. at 50,929.
[171] 40 C.F.R. §§ 705.3, 704.3.
[172] *Id*.
[173] 90 Fed. Reg. at 50,930.
[174] EPA, *Response to Public Comments*, *supra* note 41, at 38.

Impurities

EPA similarly proposes to exempt reporting on PFAS manufactured as impurities, which are defined as "a chemical substance unintentionally present with another chemical substance."[175] The Agency states that PFAS manufactured as impurities are likely to be found only in imported materials, as "there are likely no PFAS manufactured as impurities domestically."[176] Even if this were true—and EPA offers no evidence in support—EPA makes an unsupported logical leap to say that "importers are not likely to know about the presence of PFAS," and therefore impurities should be exempt from reporting.[177] EPA does not address its previous findings from the 2023 Reporting Rule that some manufacturers *may be already aware* of PFAS manufactured as impurities;[178] those manufacturers who have tested their products for PFAS impurities should be required to report on them. This is crucial because PFAS impurities are, in fact, produced during the manufacture of PFAS chemicals,[179] and scientific studies have demonstrated the presence of PFAS impurities in PFAS-containing commercial products,[180] making it necessary for EPA, and the States, to know the full universe of PFAS to which consumers and workers are being exposed.

Non-Isolated Intermediates

TSCA regulations define non-isolated intermediates as "substances manufactured and consumed within a closed system during the production of another chemical substance."[181] EPA argues that these substances remain within closed systems, "are not *expected* to be released into the environment or handled by workers," and "often are extremely difficult to identify" to justify why reporting is unnecessary.[182] But this is precisely why information must be reported by manufacturers to EPA—EPA needs information on whether non-isolated intermediates are actually released into the environment or handled by workers, and only the manufacturer is in the position to know or reasonably ascertain which PFAS chemicals, including non-isolated intermediates, they have created and how they are used and emitted. And EPA is well aware that PFAS intermediates can pose health risks.[183]

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[175] 40 C.F.R. § 704.3.
[176] 90 Fed. Reg. at 50,930.
[177] *Id*.
[178] EPA, *Response to Public Comments*, *supra* note 41, at 36.
[179] OECD, Env't Directorate, Chems. & Biotechnology Comm., *Fact Cards of Major Groups of Per-and Polyfluoroalkyl Substances (PFASs)* (Jan. 2022), https://www.oecd.org/content/dam/oecd/en/publications/reports/2022/01/fact-cards-of-major-groups-of-per-and-polyfluoroalkyl-substances-pfass_9e9f6507/59e7ffc6-en.pdf (detailing the types of PFAS impurities formed in the synthesis of different classes of PFAS).
[180] Anen He et al., *A Critical Review of Populations with Occupational Exposure to Per- and Polyfluoroalkyl Substances: External Exposome, Internal Exposure Levels, and Health Effects*, 59 Env. Sci. Tech. 10,715 (May 2025), https://pubs.acs.org/doi/10.1021/acs.est.4c14478.
[181] 90 Fed. Reg. at 50,930–31.
[182] *Id.* at 50,930–31 (emphasis added).
[183] EPA, Order Under Section 4 of the Toxic Substances Control Act (TSCA), Docket No. EPA-HQ-OPPT-2021-0910 (Jan. 2023), https://www.epa.gov/system/files/documents/2023-01/10434-01_TSCA_Test%20Order_PFAS-HFPO%29_AA_Signature_2023-01-04.pdf (test order concerning HFPO, a widely used PFAS intermediate, for which "EPA identified hazards for acute toxicity, carcinogenicity, reproductive and developmental toxicity, specific target organ toxicity, and neurotoxicity").

D. EPA Must Collect Data on PFAS Manufactured for Research and Development

The States equally strongly oppose EPA's proposed exemption for PFAS manufactured for research and development ("R&D") purposes. The proposed exemption would apply to PFAS manufactured solely for R&D purposes in any volume, despite EPA's use of the phrase "in small quantities."[184] As with the other exemptions discussed above, EPA considered and rejected this exemption during its promulgation of the Reporting Rule.[185] EPA now abruptly and without reasoned justification reverses course and proposes an exemption entirely at odds with its prior reasoning. As EPA pointed out in the 2023 rulemaking, entities who manufacture R&D substances, even in small quantities, "are likely to have manufactured those substances purely for laboratory analytical purposes, which may be at their own site or their customers' sites. As such, these manufacturers are aware of the R&D chemical identity and production volume[.]"[186] This PFAS information is therefore accessible for reporting.

E. EPA's Reliance on TSCA Section 8(a)(5)(B) to Justify the Proposed Exemptions is Misplaced

The Proposal justifies the proposed exemptions by pointing to TSCA section 8(a)(5)(B) as requiring EPA to "minimize the cost of compliance" on small manufacturers.[187] But the Proposal goes well past "minimizing" costs and instead would eliminate any cost by discarding the compliance requirement itself. EPA cannot rely on section 8(a)(5) to abrogate the separate duty under section 8(a)(7) to promulgate regulations that require "each person" to report. EPA must consider ways to "minimize" costs, but it cannot exclude entire manufacturing sectors from the reporting requirements. EPA explicitly acknowledged this in the 2023 rulemaking: "a broad exemption for all entities deemed a 'small manufacturer' would not enable EPA to fulfill the express requirements of the NDAA to require 'each person' to report their PFAS manufacturing activities."[188] In addition, the Proposal's exemptions would apply to all manufacturers, big and small, so this justification is not tenable.

Plus, the 2023 Reporting Rule already provided some relief for small manufacturers. For example, EPA provided small article importers with an additional six months for reporting.[189] And for entities manufacturing smaller amounts of R&D PFAS chemicals, the 2023 Reporting Rule minimized costs and burdens by providing for them to utilize streamlined reporting and report estimates where appropriate.[190]

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[184] 90 Fed. Reg. at 50,930.
[185] 88 Fed. Reg. at 70,523.
[186] *Id.* at 70,523.
[187] 90 Fed. Reg. at 50,926.
[188] 88 Fed. Reg. at 70,556.
[189] *Id.* at 70,537.
[190] *Id*. at 70,556.

Comparison to Other TSCA Rules with Exemptions

The Proposal points to exemptions for "small quantities" of R&D chemicals in other parts of TSCA section 8 as purported evidence that PFAS information from this sector is not necessary.[191] To the contrary, this is precisely why the reporting requirements in TSCA 8(a)(7) are necessary. The only thing TSCA sections 8(a)(1) and 8(b)(1) demonstrate is that Congress knows when it wants to exempt small quantities of R&D substances from reporting obligations. It did not do so for PFAS reporting. EPA acknowledged this in 2023:

> In response to commenters who refer to TSCA section 8(a)(1) in their support of an exemption for small manufacturers, EPA respectfully points out that this is a rule authorized under TSCA section 8(a)(7), not under TSCA section 8(a)(1). While Congress explicitly carved out potential exemptions for small manufacturers and small processors for rules implemented under TSCA section 8(a)(1) for chemicals not subject to certain TSCA actions, Congress chose not to do so in the text of TSCA section 8(a)(7).[192]

That other TSCA rules have exemptions only highlight the critical need for the mandatory PFAS reporting requirements for R&D chemicals and the other proposed exempted categories. As explained in the 2023 rulemaking:

> "EPA believes that the submission of 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. With existing R&D reporting exemptions under other TSCA rules . . . , EPA does not have a dataset of PFAS manufactured as R&D substances. Therefore, reporting on such substances is necessary to the effective implementation of TSCA. Further, EPA understands that 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."[193]

No Reporting Threshold

Notably, EPA's proposed R&D exemption would not include a reporting threshold, meaning that the exemption would apply regardless of the volume of PFAS manufactured for R&D use. EPA proposes to use the subjective "small quantities" standard from 40 C.F.R. Part 704.3, whereby the exemption would apply to amounts "not greater than reasonably necessary for such purposes." This limitation is no limit at all. The Proposal does not contain any explanation or guidance for how EPA would apply or enforce this subjective standard. EPA would grant itself and manufacturers broad discretion to determine the bounds of the exemption, an arbitrary action far beyond the limits of EPA's statutory authority under section 8(a)(7).

[191] 90 Fed. Reg. at 50,930 (referencing TSCA § 8(b)(1) and (b)(5)).
[192] 88 Fed. Reg. at 70,537.
[193] *Id*. at 70,523.

F. The Proposal's Additional Suggested Limitations Are Wholly Inappropriate

In the Proposal EPA also solicits comment on whether there should be a 1.0% de minimis exemption, or some other "appropriate de minimis level" instead of the proposed 0.1%.[194] Exempting PFAS in mixtures and articles below a threshold of 1.0% is completely inappropriate, for the same reasons discussed above for the proposed 0.1% threshold.[195] 1.0% equates to one part per *hundred*, which is equivalent to 10 billion ppt. That EPA would limit reportable PFAS to this high threshold concentration is baffling considering that EPA has established regulations for certain PFAS chemicals down to single digits of ppt due to their toxicity.[196]

EPA is also soliciting comment on the specific question, "Should EPA amend the scope of reportable chemicals?"[197] The suggested limitations would gut PFAS reporting obligations even further and are completely unsuitable for an information gathering rule. First, EPA suggests modifying the scope of reportable substances "by limiting reporting to those PFAS with a Chemical Abstracts Service [] Number,…TSCA Accession Number, or Low-Volume Exemption Number."[198] This suggestion flies in the face of the 2023 Reporting Rule, which was established so EPA could ascertain which PFAS are used in commerce and emitted to the environment.[199] Limiting reporting to only PFAS with a Chemical Abstracts Service Number (CAS Number) would limit reporting to only those PFAS known to EPA, since "[a] substantial proportion of [PFAS] do not have a CAS number."[200] The same would apply to limiting reportable to PFAS with a TSCA Accession Number, or Low-Volume Exemption Number—these are PFAS for which EPA has already received at least some information.

The Proposal also suggests that EPA is entertaining limiting reportable PFAS to only those on the TSCA Inventory, despite the fact that "chemical innovation has led to new PFAS compounds [and] limiting the scope of regulation to certain existing compounds on the TSCA Inventory would create aa [*sic*] gap in the regulation regarding any chemical substances not already in the inventory."[201] As EPA noted in the 2023 rulemaking,

> [R]eporting on substances which are not currently on the TSCA Inventory is neither unnecessary or duplicative of previous TSCA reporting, as EPA does not currently have information related to these substances' identities or information to inform whether they would meet the definition of "chemical substance" under TSCA section 3(2). Thus, reporting on these substances is consistent with TSCA section 8(a)(5)(A).[202]

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[194] 90 Fed. Reg. at 50,032.
[195] Section III.A., *supra*.
[196] Final Rule, PFAS National Primary Drinking Water Regulation, 89 Fed. Reg. 32,532 (April 26, 2024), https://www.federalregister.gov/documents/2024/04/26/2024-07773/pfas-national-primary-drinking-water-regulation.
[197] 90 Fed. Reg. at 50,932-33.
[198] *Id.* at 50,932.
[199] 88 Fed. Reg. at 70,538.
[200] KEMI, *Occurrence and use of highly fluorinated substances and alternatives*, Swedish Chemical Agency (2015), https://www.kemi.se/download/18.6df1d3df171c243fb23a98ea/1591454109137/report-7-15-occurrence-and-use-of-highly-fluorinated-substances-and-alternatives.pdf.
[201] 90 Fed. Reg. at 50,932.
[202] EPA, *Response to Public Comments*, *supra* note 41, at 18.

Finally, EPA is soliciting comment on whether to incorporate a 2,500 pounds production threshold for PFAS reporting as suggested by industry.[203] As the Proposal notes, "EPA does not believe that incorporating a minimum threshold would enable the Agency to meet its information needs." EPA also admits that:

> [it] understands that some PFAS that were manufactured in lower quantities may still persist in the environment, and the Agency is interested in understanding the extent of environmental exposure. EPA also notes that there is precedent for promulgating a TSCA rule without a minimum threshold where the regulated chemical(s) are of significant interest to EPA, including due to potential health or environmental concerns.[204]

Yet EPA is still "amenable" to comments on such a threshold.[205] EPA already considered applying such a threshold and declined to do so in the 2023 rulemaking.[206] Implementing a production threshold would be incongruous with the directive from Congress to gather information on the manufacture of PFAS chemicals by "each person" with no qualification on the amount of PFAS manufactured by such persons subject to reporting, and is improper for the reasons EPA provided in the Proposal. The Proposal does not provide any justification for reconsidering the threshold EPA already rejected, and as such, this industry request should be discarded.

IV. Conclusion

The Attorneys General urge EPA to preserve the integrity of the Reporting Rule and to collect the reportable PFAS data without further delay. If EPA adopts its Proposal as a final rule, vital information about the types of PFAS used in U.S. commerce and the risks these chemicals pose will remain hidden away, arbitrarily and capriciously and unlawfully undermining States' efforts to protect human health and the environment, as well as EPA's mandate under TSCA to evaluate and minimize chemical risks.

Sincerely,

[203] 90 Fed. Reg. at 50,932-33; Coal. of Chem. Cos., *supra* note 38.
[204] 90 Fed. Reg. at 50,933.
[205] *Id.*
[206] 88 Fed. Reg. at 70,539.

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