

EPA Proposes to Delay Start of Reporting Period and Submission Deadline for Expansive PFAS Reporting Rule Under the Toxic Substances Control Act

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On September 5, 2024, the US Environmental Protection Agency (EPA) concurrently issued a [direct final rule](#) and [proposed rule](#) to change the reporting period and submission deadline for its reporting rule for per- and polyfluoroalkyl substances (PFAS) under Section 8(a)(7) of the Toxic Substances Control Act (TSCA). As previously reported in our [first](#) and [second](#) installments of “Frequently Asked Questions” and answers about EPA’s PFAS reporting rule, the rule requires entities that have manufactured or imported PFAS, or imported PFAS-containing products and articles, at any time between January 1, 2011, and December 31, 2022, to submit detailed reports to EPA within the submission period.

EPA is now proposing to move the start of the reporting period from November 12, 2024, to July 11, 2025, and thereby change the submission deadline for the six-month reporting period from May 8, 2025, to January 11, 2026. Small businesses reporting data solely on importing PFAS contained in articles will have until July 11, 2026, to submit reports. EPA deems the proposed one-time modification of the data submission period necessary and in the public interest because the online reporting tool being developed to collect data will not be fully functional by November 2024. EPA deems the reporting deadline “no longer tenable” because it would require companies to submit data before EPA has the “technological capacity in place to accept that data.” EPA intends for this action to provide EPA with more time to complete its reporting application to ensure reporting entities do not experience technical issues when reporting. EPA attributes the delay in its development of the PFAS reporting tool to its increased responsibilities under amended TSCA, competing priorities, and reduced agency funding.

Additionally, the direct final rule and proposed rule make a technical correction. EPA is revising an inadvertent error in the regulatory text to clarify its intent to receive information only on “unpublished study reports”—not “published study reports”—under the requirement to submit Organization for the Economic Cooperation and Development’s (OECD) Harmonized Templates (OHT).

This direct final rule will become effective within 60 days of being published in the *Federal Register* unless EPA receives adverse comments, in which case, the direct final rule will not take effect, and EPA will consider the public comments received and issue a final rule at a later time.

While EPA is likely to finalize this proposed extension of the reporting period and submission date, it is critical for companies to continue their due diligence efforts to compile reportable information under the PFAS reporting rule. As previously reported, the rule’s expansive scope does not have any exclusions for PFAS that are impurities, byproducts, used in commercial research and development (R&D), or only present in a mixture or article in trace amounts. And, unlike many state PFAS reporting laws, this reporting rule is not limited to intentionally added PFAS. Even the importation of one product or product component containing trace amounts of PFAS could trigger reporting obligations. Given these requirements, companies—especially those with complex supply chains or that manufacture or import many types of products—may need months to collect and verify the information that is “known to or reasonably ascertainable by” the company.

Jaclyn E. Lee also contributed to this article.

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