

Environmental Protection Agency (EPA) Finalized PFAS Reporting Rule

TÜV Rheinland LGA Products - Information

October 2023

Per- and polyfluoroalkyl substances (PFAS) are increasingly a topic of discussion in the media and are thus attracting the attention of consumers.

PFAS are also referred to as "forever chemicals" because they are considered persistent, bioaccumulative and toxic (PBT) and can easily pass into and accumulate in air, dust, food, soil and water. Restrictions for different classes of PFAS in articles and mixtures currently exist, for example in Europe under the REACH or the POP Regulation.

The US EPA reporting rule for PFAS was originally proposed in June 2021, but the EPA provided multiple opportunities for public comment and input throughout 2022. Congress directed the EPA to finalise the rule by 1 January 2023, but the rule has only recently been finalised.

On September 28, 2023, the U.S. Environmental Protection Agency (EPA) finalized their rule. Under the Toxic Substances Control Act (TSCA) 8(a)(7), all manufacturers (including importers) of PFAS and PFAS-containing articles are required to report data to the EPA going back to 2011.

Reporting is required for any chemical substance or mixture that contains a PFAS listed on the TSCA Chemical Substance Inventory, a PFAS listed on the TSCA Section 5 Low Volume Exemption List, or if it meets the "structural definition" provided in the rule. Over 1400 PFAS chemicals have been identified under the reporting requirements of this TSCA reporting rule.

Records must be on file for a period of 5 years. This includes importers of articles containing PFAS, including intentionally added PFAS or PFAS used in the manufacturing process.

The requirement to submit all information electronically under this reporting rule is similar to other requirements established under TSCA.

A "Small Entity Compliance Guide" is will include information on steps that businesses may take to comply with the due diligence standard.

The final rule is intending to collect the largest ever dataset of PFAS manufactured and used in the U.S. EPA plans to make some of the information which they obtain through this rule to support consideration for future regulatory activities.

DATA REPORTING

EPA has developed the Chemical Information Submission System (CISS), which can be used by manufacturers and importers to submit data electronically under this new reporting rule. *There will be a specific reporting tool within CISS that will be available at the start of the reporting period.*

Electronic reporting will include information on the use of PFAS, any by-products generated during manufacture, production volumes, disposal, exposure, environmental and toxicological information and hazards. All information that is known or reasonably available to the manufacturer must be reported. If no actual data are available to be included in the report, the manufacturer or importer must determine whether they can make 'reasonable estimates'.

TIMELINE FOR REPORTING

The new rule will go into effect 30 days after it was officially published in the Federal Register on October 11, 2023. Any companies who have manufactured or imported PFAS in any year since 2011, will have 18 months for their one-time reporting obligations. Small businesses who are exclusively importing articles, will have 24 months. Failure to comply with the reporting rule could result in civil and criminal penalties under TSCA.

SOURCES

[Federal Register: Toxic Substances Control Act Reporting and Recordkeeping Requirements for Perfluoroalkyl and Polyfluoroalkyl Substances](#)

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