

**Comments of the
Semiconductor Industry Association (SIA)
on the
Initial Regulatory Flexibility Analysis and Updated Economic Analysis
for the
Proposed TSCA §8(a)(7) Reporting Rule for PFAS**

**87 Fed. Reg. 72,439 (November 25, 2022)
Docket EPA-HQ-OPPT-2020-0549**

December 27, 2022

The Semiconductor Industry Association (SIA) submits these comments in response to the U.S. Environmental Protection Agency's (EPA's or the Agency's) Initial Regulatory Flexibility Analysis (IRFA) and Updated Economic Analysis for the proposed rule for reporting and recordkeeping requirements for perfluoroalkyl and polyfluoroalkyl substances (PFAS) under Section 8(a)(7) of the Toxic Substances Control Act (TSCA) (the Proposed Reporting Rule).¹

SIA is the trade association representing leading U.S. companies engaged in the research, design, and manufacture of semiconductors. Semiconductors are the fundamental enabling technology of modern electronics that has transformed virtually all aspects of our economy, ranging from information technology, telecommunications, health care, transportation, energy, and national defense. The US is the global leader in the semiconductor industry, and continued US leadership in semiconductor technology is essential to America's continued global economic leadership. More information about SIA and the semiconductor industry is available at www.semiconductors.org.

SIA is reiterating, and is incorporating by reference, the carefully considered comments we submitted to this docket on September 25, 2021 (<https://www.regulations.gov/comment/EPA-HQ-OPPT-2020-0549-0054>). Our comments at the time recommended that the Agency implement numerous changes to the Proposed Reporting Rule which would address the very same concerns that are only now being identified as a result of EPA's more accurate assessment of the enormous economic impacts that will result from the Proposed Rule if finalized without substantial changes consistent with SIA's September 2021 comments. Moreover, it is SIA's perspective that the updated economic assessment continues to underestimate the regulatory burden that the Proposed Reporting Rule will impose. This is due in large measure because the Agency's new assessment unduly focuses on small business while overlooking the many larger businesses in the U.S. that likewise will be overwhelmed by the reporting obligations being considered.

Reiteration of SIA's Key Recommendations and Concerns

EPA must substantially modify the Proposed Rule in multiples ways which, if implemented completely, could significantly reduce the impact the rule will have on SIA members and other similarly situated sectors of the U.S. economy. Doing so will make compliance with the final rule more feasible and reduce the likelihood that entities potentially subject to the rule will commit fewer errors in reporting and will submit more accurate and timely information.

SIA's recommendations continue to include:

¹ 86 Fed. Reg. 33926 (June 28, 2021).

- *Reporting on articles containing PFAS should not be included in the final rule.* EPA is not required by law to include articles containing PFAS within the scope of the Section 8(a)(7) final rule. Moreover, SIA members, like other similarly situated businesses, are not aware of or readily gain access to, the chemical content of complex articles they may import.
- *EPA should significantly reduce the number of PFAS subject to the reporting rule and eliminate the use of a “structural definition” for PFAS in the rule.* A finite list of specific PFAS of interest (such as those known to be in US commerce) should be established for the Final Rule. Excluding fluoropolymers that are exempt for reporting for the Chemical Data Reporting (CDR) is an important improvement to implement.
- *EPA should exclude processors from reporting obligations and clarify that only those entities that manufacture/import PFAS and PFAS-containing mixtures must report.*
- *EPA should not require reporting on PFAS and PFAS-containing mixtures (and articles) that are solely used in research and development activities.*
- *Other standard exemptions permitted for TSCA rules should be incorporated in the final Reporting Rule, including exemptions for PFAS when present as a by-product or unintended impurity in a substance, mixture, or article.*
- *EPA should establish thresholds for the presence of PFAS and exclude from reporting PFAS when present below a de minimis threshold (e.g., ≤ 0.1%).*
- *EPA must provide definitive guidance and a practical standard for due diligence that will be acceptable to meet the “known to or reasonably ascertainable by” standard.*
- *The reporting timelines should be reconsidered for the final rule.*
- *EPA must reexamine its new economic assessment to more carefully and realistically evaluate the number of larger enterprises that will experience the same, or possibly even greater, reporting burdens than smaller businesses. Such a revised assessment available for public scrutiny and interagency review before the rule can be issued in final form.*

These revisions and exemptions, which SIA continues to support, will materially improve the Final Rule and reduce the economic burden of compliance. At the same time, these revisions will not diminish EPA’s ability to collect important new data and information pertaining to potential human exposures and environmental releases of PFAS which may not appear in the public literature. Seeking data that will be difficult – if not impossible – to gather (such as PFAS content in articles) will be unnecessarily time consuming. Further, such information will be inconsistent, unreliable, and fraught with errors and will not be meaningfully related to exposures and releases of PFAS in the U.S. Imposing burdensome requirements to generate poor quality and less meaningful data does not serve the statutory intent behind TSCA’s Section 8(a)(7) reporting. This is among the many reasons EPA has exempted such categories of information from other TSCA reporting rules, and EPA should do so here as well.

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SIA thanks the Agency for the opportunity to comment and reiterates our willingness to meet with EPA staff to discuss our comments and concerns.