

ALERT

EPA Delays Start Date for PFAS Reporting Under TSCA Section 8(a)(7), While Mandatory PFAS Reporting in Canada Is Still Ongoing

September 9, 2024

On September 5, 2024, the U.S. Environmental Protection Agency (EPA) published in the Federal Register a direct final rule with a parallel proposed rule to delay the reporting period for the October 2023 final rule that requires reporting under Section 8(a)(7) of the Toxic Substances Control Act (TSCA) for Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS). 88 Fed. Reg. 70516. Wiley provided a summary of this rule in its October 6, 2023 client alert.

The reporting period was scheduled to begin on November 12, 2024, but is now proposed to begin on **July 11, 2025**, and run through **January 11, 2026**, for most companies. Small businesses reporting data solely on importing PFAS contained in articles will have until **July 11, 2026**, to submit reports.

As a reason for delaying the reporting period, EPA refers to resource constraints in implementing the TSCA program. Specifically, EPA did not have the required resources to update and make available its Central Data Exchange (CDX) software application and TSCA confidential business information-based applications in time for the November 2024 deadline.

In addition to delaying the start date for PFAS reporting, EPA is proposing a minor technical correction to the rule text to clarify that it requires Organization for the Economic Cooperation and Development (OECD) Harmonised Templates (OHTs) only for *unpublished* study reports, as those are not publicly available in open literature. The current language erroneously states that OHTs are required for published study reports.

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EPA has provided a 30-day public comment period on both the direct final rule and proposed rules, with comments due on both by October 7, 2024. If EPA receives no adverse comments on the direct final rule during that period, it will become effective on **November 4, 2024** (60 days after publication). If EPA receives adverse comments on the direct final rule, the direct rule will be withdrawn. EPA will then respond to any comments it receives by **October 7, 2024** (in the next 30 days) on the proposed rule when it issues a final rule stemming from the separately proposed rule. Regardless of which process prevails, a postponement is likely based on EPA's representation that it is unable to support a secure and reliable reporting platform before next July. In the event that no adverse comments are received on the direct final rule and the extension period for reporting becomes final, companies will have additional time to assess their supply chains to meet the reporting obligations.

As a side note, Canada's Section 71 Notice to initiate a survey on PFAS in products in Canada remains in effect. The Government of Canada published the *Notice with respect to certain per- and polyfluoroalkyl substances (PFAS)* on July 27, 2024, in the *Canada Gazette*, Part I. Environment and Climate Change Canada (ECCC) is seeking information on the manufacture, import, and use of 312 specific types of PFAS (listed in Schedule 1 of the Notice) in calendar year 2023 by **January 29, 2025**. Canada may grant additional time upon request from individual companies for filing these reports. ECCC will host a webinar on the Canadian reporting program on **September 11, 2024, at 1:30 p.m. EDT**. To ask for the call coordinates, contact ECCC's Substances Management Information Line by email at substances@ec.gc.ca or by telephone at 819-938-3232 (within Canada) or 1-800-567-1999 (international).