February 3, 2023
Daniel R. Ruedy
Data Gathering and Analysis Division (7406M)
Office of Pollution Prevention and Toxics
Environmental Protection Agency
1200 Pennsylvania Ave. NW, Washington, DC 20460–0001
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Re: Comments on Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting (EPA-HQ-TRI-2022-0270)

Dear Mr. Ruedy,

On behalf of the Household & Commercial Products Association[1] (HCPA) and its members, we wanted to convey our concerns with the proposed Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting (Docket EPA-HQ-TRI-2022-0270). HCPA is supportive of the goals of reporting requirements for Per- and Polyfluoroalkyl Substances but has significant concerns with the proposed changes to Supplier Notifications and removal of the *de minimis* threshold for substances of special concern.

HCPA believes that the substantial impact of the removal of *de minimis* thresholds has not been captured. The *de minimis* exemption allows facilities to disregard concentrations of Toxics Release Inventory (TRI) listed chemicals below 1% (0.1% for carcinogens) in mixtures or other trade name products they import, process, or otherwise use in making threshold calculations and release and other waste management determinations. Practically, use of *de minimis* threshold is a well-established manner in which the Agency can capture the requisite information while providing a reasonable baseline for compliance certitude for those with potential reporting requirements. The challenge is that without a *de minimis*, the universe of potentially impacted entities increases exponentially as manufacturers no longer have a lower limit to determine

[1] HCPA is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than $180 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. HCPA member companies employ hundreds of thousands of people globally. HCPA represents products including disinfectants that kill germs in homes, hospitals and restaurants; air fresheners, room deodorizers, and candles that eliminate odors; pest management products for pets, home, lawn, and garden; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day.

potential compliance. As analytical techniques improve over time, the practical quantitation limit will also improve, placing additional challenges and burdens upon manufacturers with negligible improvement in the information the Agency receives.

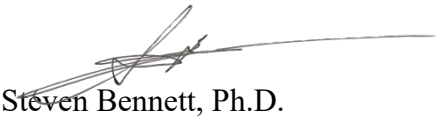
HCPA is concerned with EPA's assumption that any potential increase in new supplier reporting will be minimal. In our view this will require significant changes in practice in the marketplace. For downstream manufacturers, information about TRI-reportable substances, or in many cases, the lack thereof, is communicated via Safety Data Sheets (SDSs). Removal of the *de minimis* threshold will significantly increase the number of necessary supplier notifications leading to a significant change in practice, development of data systems and processes to capture, transmit and retain the supplier notifications throughout the supply chain. Furthermore, for the upstream manufacturers, they'll be burdened with having to provide the same information into many different unique systems as their customers will have different processes and procedures that they'll have to manage and report into. The burden of this transition is not adequately captured in the burden estimate in the proposal. Additionally, as noted in the Economic Analysis, the Agency did not include the number of potential firms impacted because they were not able to estimate the number of additional facilities who may be subject to TRI reporting due to the removal of the *de minimis* exemption for supplier notification requirements. Using the example of HCPA's membership, about 25% currently have reporting requirements for at least one TRI-reportable substance but this required shift in supplier reporting would impact virtually all of our member companies and would be particularly impactful to small businesses. Correspondingly one would expect the Agency to receive a significant increase in the number of reports, the majority below (and likely well below) the current *de minimis* levels in an effort to obtain a more complete picture of the releases and waste management quantities. The Agency cites the shift as burden-reductive reporting but does not adequately account for the increased efforts by reportable entities and the Agency to report and manage this increase in information. HCPA strongly recommends the Agency retain the current *de minimis* threshold and revise the supplier notification requirements and capture the burden accordingly.

HCPA is concerned that without having a clear understanding what is considered a PFAS substance as it relates to TRI reporting, it is likely that the Agency will not receive the intended information. While HCPA agrees with EPA's interpretation that a definition is unnecessary for fulfilling NDAA section 7321(b) since that specifies CAS numbers and other information that allows for identification of the specific PFAS, we disagree with EPA's interpretation that a definition is unnecessary for fulfilling NDAA section 7321(c). Namely Section 7321(c) specifies that a PFAS not listed in 7321(b) may be added to the TRI if one of four criteria is met: a toxicity value for the substances is finalized, EPA makes a SNUR determination for the substance, EPA adds the substance to an existing SNUR, or EPA adds the substance to the active TSCA inventory. As one office within EPA makes a toxicity value determinations (ORD) and another office is publishing SNURs and adding chemicals to the active TSCA Inventory (OCSPP), there is a distinct possibility of inconsistent definitions of PFAS between the two offices. This will inherently lead to a lack of clarity and a lack of consistency regarding when a

chemical could be considered a PFAS and become subject to TRI reporting, hurting the agency's ability to collect the information it seeks. HCPA recommends that the Agency include a definition in this rulemaking to ensure regulatory consistency and clarity of compliance obligations to impacted entities.

We thank you for this opportunity to share our concerns on this very important issue.

Sincerely,



Steven Bennett, Ph.D.
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