# Congress of the United States
## Washington, DC 20510

April 11, 2022

Dr. Michal Freedhoff
Assistant Administrator
Office of Chemical Safety and Pollution Prevention
1200 Pennsylvania Ave, NW
Washington, DC 20460

**Re: Closing PFAS Reporting Loopholes under the Toxics Release Inventory**

Dear Assistant Administrator Freedhoff,

We are writing to urge the Office of Chemical Safety and Pollution Prevention to swiftly take action to close the reporting loopholes for the 176 PFAS chemicals listed on the Toxics Release Inventory (TRI). Congressional action was taken through the National Defense Authorization Act (NDAA) Fiscal Year 2020 to list certain PFAS on the TRI so that the Environmental Protection Agency (EPA), other federal agencies, and the public can have tangible data to know what volumes of these toxic chemicals are being manufactured, processed, used, and released in the U.S. every year. However, the way in which the EPA codified the TRI-listed PFAS into law allows polluters to utilize exemptions to significantly underreport or avoid reporting its PFAS releases entirely. For example, we know PFAS are often used in mixtures and the *de minimis* exemption allows facilities to avoid reporting if concentrations of each PFAS are less than 1% even if the combination of total PFAS present significantly exceeds the 100lb reporting threshold. We saw the consequences of this in the 2020 TRI program data.

When EPA released its preliminary data in July of 2021, it was revealed that a mere 38 facilities across the U.S. reported having manufactured, processed, or otherwise used a TRI-listed PFAS in 2020. Given the amount of PFAS being manufactured and used throughout the country, this number is exceptionally low. Further, just this month, EPA released its 2020 TRI National Analysis, which additionally highlighted the impacts of these loopholes, as they have led to low reporting by facilities and military agencies, including the Department of Defense – one of the biggest PFAS polluters in the country – which did not report *any* PFAS releases.

In the PFAS Roadmap, EPA acknowledged that certain exemptions limited the PFAS data received in 2020 under the TRI program, and noted that reporting was exceptionally low. The agency set out its plans in the Roadmap to issue a proposed rulemaking later this year to close these loopholes. While we appreciate EPA's efforts, the timeline is greatly concerning. In the Unified Regulatory Agenda for Fall 2021, EPA indicated that the proposed rule to close these reporting exemptions would be published in March 2022 and the final rule would not be published until June 2023: this gives industry until 2024 to report their PFAS releases in full. Based on this timeline, we will have flawed data until at least 2025, leaving communities exposed to toxic PFAS with no knowledge of where and in what volume these chemicals are

being dumped into their neighborhoods. Furthermore, we are highly concerned that the agency is running behind its own schedule as a recent EPA news release indicates that the proposed rule is now expected to be released this summer.

As you know, PFAS are bioaccumulative and take decades to break down in our bodies and in the environment. PFAS have been linked to cancers, impaired fetal development, low birth weight, high blood pressure, and other adverse health effects. Contamination is pervasive throughout the United States and communities deserve to know where these chemicals are in proximity to their homes and families. We urge you to immediately take action to close these reporting loopholes.

Sincerely,


A. Donald McEachin
Member of Congress

Daniel T. Kildee
Member of Congress

Antonio Delgado
Member of Congress


Brian Fitzpatrick
Member of Congress

Raúl M. Grijalva
Member of Congress

Debbie Dingell
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Haley M. Stevens
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Technology

Deborah K. Ross
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Peter A. DeFazio
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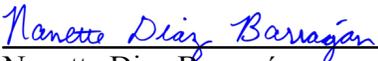
Marie Newman
Member of Congress

Steve Cohen
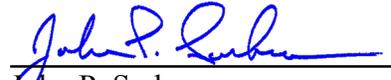Member of Congress

Earl Blumenauer
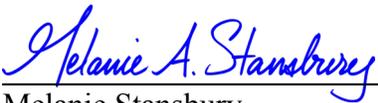Member of Congress

Dina Titus
Member of Congress
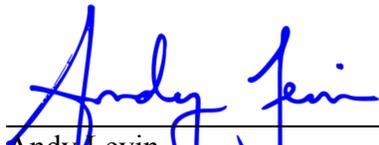
Nanette Diaz Barragán
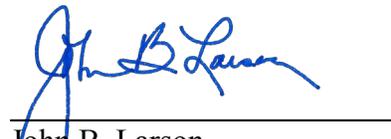Member of Congress

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