

Toxics Release Inventory/Community Right-to-Know: U.S. Environmental Protection Agency Final Rule Adding Certain PFAS



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06/08/2021

The U.S. Environmental Protection Agency (“EPA”) published a final rule in the Federal Register noting the addition of three per- and polyfluoroalkyl substances (“PFAS”) to the Toxic Release Inventory (“TRI”). See 86 Fed. Reg. 29698.

The action was required to implement a statutory mandate found in the National Defense Authorization Act for fiscal year 2020 that had been enacted in 2019.

The TRI is a publicly available database that contains information on toxic chemical releases and other waste management activities reported annually to EPA by certain covered industry groups as well as federal facilities. The TRI was established pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 and was subsequently expanded by the Pollution Prevention Act of 1990. Facilities and certain industries which manufacture, process, or use significant amounts of toxic chemicals are required to report on their releases of these chemicals on an annual basis.

The TRI contains information on releases of over 650 chemicals in chemical categories from industries including manufacturing, metal and coal mining, electric utilities, and commercial hazardous waste treatment (among others). Companies that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels are required to submit reports to EPA and to designated state officials.

The previously referenced 2019 law required in Section 7321(c) the addition of the mandate that EPA automatically add PFAS or classes of PFAS to the Section 313 list of reportable chemicals. PFAS or classes of PFAS are added to the Section 313 list of reportable chemicals beginning January 1 of the calendar year after any one of the following dates:

- Final Toxicity Value
- Significant New Use Rule
- Addition to Existing Significant New Use Rule
- Addition as an Active Chemical Substance

EPA stated that it reviewed the above-listed criteria and found three chemicals that meet the requirements of this part of the law.

The added chemicals will be found in 40 C.F.R. § 372.65 through an amendment to Table 4 to paragraph d.

A copy of the Federal Register Notice can be found [here](#).