

EPA Officially Adds PFAS Chemicals to TRI Reporting Program

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Earlier today, U.S. EPA officially added 172 specific per- and poly-fluoroalkyl substances (PFAS) to the list of chemicals reportable each year under the Toxic Release Inventory (TRI) program. With annual TRI reports due July 1, there have been some reports that erroneously suggest that the first set of PFAS reports are due by the end of this month. In fact, the rule adds PFAS formally to the TRI program effective January 1, 2020 (*i.e.*, for the "2020 reporting year") for which reports are due **July 1, 2021**. Companies therefore now should be collecting data on their manufacturing, processing or other use activities related to PFAS chemicals, in preparation for reporting next year.

The listing implements section 7321 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA), adopted in December 2019, which directed EPA to add certain PFAS to the list of chemicals covered by the TRI program under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). EPA first announced its intention to add 160 PFAS chemicals to the list in February, including PFOA, PFOS, and GenX, among others. After reviewing the listing criteria, EPA decided to remove 12 of the initial 160 chemicals from the listing decision, while adding an additional 24 PFAS. The updated TRI PFAS list is [available here](#). EPA is continuing to evaluate the possible addition of other PFAS to the TRI list.

EPA's final rule also retains the 100 pound reporting threshold authorized in the NDAA for PFAS, instead of the typical TRI 25,000 pound manufacturing and processing threshold (and 10,000 pound "otherwise use" threshold). Significantly, EPA also retained the availability of the *de minimis* exemption for PFAS -- which is 0.1% for perfluorooctanoic acid (PFOA) (due to its cancer classification), and 1% for all other PFAS. The quantity of PFAS in mixtures that contain less than the *de minimis* concentration do not need to be counted towards the reporting threshold or in release calculations.

Common applications of PFAS include use for stain- and water-repellent fabrics, nonstick products, polishes, waxes, paints, cleaning products, and fire-fighting foams (the latter of which may be of particular interest to many U.S. manufacturing facilities). PFAS currently are under intense scrutiny nationwide given information indicating that they are highly persistent and do not readily break down in the environment and bioaccumulate in the human body. EPA reports that there is evidence that exposure to PFAS can lead to adverse human health effects.

Further information on PFAS is [available at EPA's website](#).