EPA Adds 9 PFAS to Toxic Release Inventory List

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The U.S. Environmental Protection Agency (EPA) has recently finalized the addition of nine per- and polyfluoroalkyl substances (PFAS) to the Toxic Release Inventory (TRI) reporting program. This change came ahead of the annual July 1st deadline for submitting TRI reports. With this update, entities handling these newly added substances will be required to include them in their annual TRI reports starting with the submission due July 1, 2024, for the 2023 reporting year.

What are PFAS and Why Are They Regulated?

PFAS are a group of synthetic chemicals that have been widely used in various industries as firefighting foams, non-stick materials, and water-resistant coatings due to their exceptional resistance to heat, water, and oil. However, based on studies which have linked them to adverse impacts on human and environmental health, there is growing concern and increased regulatory scrutiny on these substances.

The EPA has been working to address these concerns under the PFAS Action Plan, which aims to regulate their use, increase research into potential health and environmental impacts, and find ways to mitigate their consequences.

What is the TRI and How Does It Relate to PFAS?

The TRI is a federal program that collects and disseminates information on the use and release of certain chemicals by facilities in specific industry sectors. The TRI helps to inform the public and regulators about the presence and management of potentially harmful chemicals in their communities and supports decision-making on environmental protection.

The TRI chemical list is updated periodically to reflect new scientific and regulatory developments. The Fiscal Year 2020 National Defense Authorization Act (NDAA) provides the framework for the addition of PFAS to the TRI each year. With required reporting on these additional nine PFAS for the 2023 reporting year, the total PFAS subject to TRI reporting is now 189.

Which PFAS Are Newly Added to the TRI and What Are Their Reporting Thresholds?

The nine PFAS added to the TRI by the EPA are:

- Alcohols, C8-16, γ-ω-perfluoro, reaction products with 1,6-diisocyanatohexane, glycidol and stearyl alc. (2728655-42-1)
- Acetamide, N- [3- (dimethylamino)propyl]-, 2- [(γ-ω-perfluoro-C4-20-alkyl)thio] derivs. (2738952-61-7)
- Perfluorobutanoic acid (375-22-4)
- Sodium perfluorobutanoate (2218-54-4)
- Potassium heptafluorobutanoate (2966-54-3)
- Ammonium perfluorobutanoate (10495-86-0)
- Perfluorobutanoate (45048-62-2)
- Perfluorobutane sulfonic acid (375-73-5)
- Potassium perfluorobutane sulfonate (29420-49-3)

These chemicals join the existing list of nearly 180 PFAS compounds subject to TRI reporting, with a reporting threshold of **100 pounds**. Under a proposed rule issued by the EPA in December 2022, all listed PFAS would be reclassified as Chemicals of Special Concern, which would exclude them from the de minimis exemption, limit the use of range reporting, and prohibit the use of Form A for certifying that releases are below threshold levels.

What Are the Implications and Recommendations for Entities Handling PFAS?

Entities that manufacture, process, or otherwise use any of the listed PFAS above or below threshold quantities should be aware of their TRI reporting obligations and prepare accordingly. The EPA has compiled summaries of existing TRI reporting guidance to address frequently asked questions related to PFAS reporting, and gathered links to external technical guidance. Entities can also use the TRI GuideME tool to determine if they are subject to TRI reporting requirements and access relevant resources.

Entities handling PFAS may also want to monitor other regulatory developments at the federal and state level that may affect their operations and compliance. For example, some states have established or proposed more stringent standards or requirements for PFAS in drinking water, groundwater, surface water, soil, air emissions, or consumer products.

Entities may also consider implementing best management practices to reduce their PFAS emissions or exposures, such as substituting alternatives where feasible, minimizing waste generation, implementing pollution prevention measures, conducting regular monitoring and testing, and providing adequate training and protection for workers and communities.

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