



EPA Announces Automatic Addition of PFHxS-Na to the Toxics Release Inventory, Triggering Mandatory Reporting Requirements

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Background: The Expanding Scope of EPCRA Section 313

The U.S. Environmental Protection Agency (“EPA” or “the Agency”) continues to add to the list of substances covered under the Toxics Release Inventory (TRI), which was established by Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) to track toxic chemical releases. This addition is part of an ongoing expansion of the TRI List driven by Section 7321 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA). The NDAA established a framework for the automatic, annual addition of per- and polyfluoroalkyl substances (PFAS) to the TRI List.

The addition of a new substance to the TRI List triggers compliance obligations for facilities in TRI-covered industry sectors that manufacture, process, or otherwise use listed chemicals above established thresholds.

1. The Addition of PFHxS-Na to the TRI List

On October 7, 2025, EPA announced the automatic addition of **sodium perfluorohexanesulfonate (PFHxS-Na)** (CASRN 82382-12-5) to the TRI List, mandated pursuant to the automatic addition framework established by the NDAA. PFHxS and its related salts, including PFHxS-Na, are used in industrial surfactants and stain-protective coatings for consumer products. They may also be present in industrial and consumer products, such as electronics, or as unintentional impurities from industrial production processes.

The addition was triggered because EPA finalized a toxicity value in 2025 entitled “*IRIS Toxicological Review of Perfluorohexanesulfonic Acid (PFHxS, CASRN 335-46-4) and Related Salts*.” While PFHxS and certain related salts were already on the TRI List before EPA finalized its toxicity value assessment, PFHxS-Na was identified in the assessment and had not yet been added to the list.

PFHxS-Na's inclusion on the TRI is effective January 1, 2026, and will bring the total number of PFAS subject to TRI reporting requirements to 206. **TRI-covered facilities must initiate tracking of PFHxS-Na on January 1, 2026, and submit TRI reports by July 1, 2027, for Reporting Year 2026.**

EPA has added PFAS to the TRI List incrementally. For Reporting Year 2025, nine PFAS were automatically added to the TRI List, effective January 1, 2025, with reports due July 1, 2026. Facilities are likely already tracking these substances. For PFAS previously added to the TRI List, see 90 Fed. Reg. 573 (Jan. 6, 2025) and 89 Fed. Reg. 43331 (May 17, 2024).

2. The NDAA Statutory Framework for Automatic PFAS Addition

Section 7321(c) of the NDAA established four specific regulatory activities that automatically add PFAS or classes of PFAS to the TRI List, beginning January 1 of the calendar year following the date on which the activity occurs. This framework removes the Agency's discretion regarding listing once a triggering action is finalized.

PFAS are added to the TRI List when any of the following activities is finalized by the Administrator:

1. **Final Toxicity Value:** The Administrator finalizes a toxicity value for the PFAS or class of PFAS (e.g., the Oct. 7, 2025, addition of PFHxS-Na).
2. **Significant New Use Rule (SNUR):** The Administrator makes a covered determination for the PFAS or class of PFAS.
3. **Addition to Existing SNUR:** The PFAS or class of PFAS is added to a list of substances covered by a pre-existing covered determination.
4. **Active Chemical Substance Designation:** The PFAS or class of PFAS is designated as an active chemical substance under Toxic Substances Control Act (TSCA) Section 8(b)(5)(A) or 8(b)(5)(B) on the list published under TSCA Section 8(b)(1).

Further, the NDAA requires EPA to review Confidential Business Information (CBI) claims made for certain PFAS. Only after EPA determines that the CBI claim did not meet threshold requirements do these PFAS appear on the public TSCA Inventory and subsequently, the TRI List.

3. Mandatory Reporting Thresholds and the Removal of *De Minimis* Exemptions

The reporting threshold established by Congress for PFAS added under the NDAA framework is **100 pounds**. EPA is required to periodically determine whether revising this threshold is warranted by EPCRA Section 313(f)(2).

In December 2024, EPA determined that a revision to the 100-pound threshold was not warranted for both the initially listed PFAS (Section 7321(b)) and the subsequently listed PFAS (Section 7321(c)) because the Agency had not yet received sufficient data to justify a change. EPA anticipates revisiting modification of the reporting threshold after receiving five years' worth of data under the current rules.

Designation of "Chemicals of Special Concern"

A critical compliance factor is the EPA's designation of NDAA-added PFAS as **"chemicals of special concern."** This classification removes two essential exemptions, significantly increasing the compliance burden for manufacturers and importers in certain sectors:

1. **Ineligibility for the *De Minimis* Exemption (Reporting):** PFAS designated as "chemicals of special concern" are ineligible for the *de minimis*

exemption for TRI threshold determination and reporting purposes. The EPA anticipates that the removal of this exemption will lead to increased reporting on these substances.

2. **Ineligibility for the *De Minimis* Exemption (Supplier Notification):** The designation also makes these PFAS ineligible for the *de minimis* exemption from TRI's supplier notification requirements. Consequently, PFAS manufacturers and importers in certain sectors must provide notification to downstream facilities regarding the concentration of these PFAS in mixtures or products **at any concentration**, including concentrations below the typical 1% threshold. This regulatory change is expected to increase the number of submitted PFAS TRI reports.

Facilities must ensure comprehensive tracking systems are in place to capture all manufacturing, processing, or use activities involving PFHxS-Na starting January 1, 2026, and for the 205 other reportable PFAS, regardless of concentration, to satisfy these stringent requirements.

For More Information

For further information or assistance, contact any of the authors or member of Van Ness Feldman's Environmental Practice.

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