

SCS TECHNICAL BULLETIN – JUNE 25, 2020

USEPA ADDS 172 PFAS CHEMICALS TO EPCRA TRI REPORTING PROGRAM

Background

The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 was created to help communities plan for chemical emergencies. It also requires industry to report on the storage, use, and releases of hazardous substances to federal, state, and local governments.

EPCRA Section 313 - Toxic Release Inventory (TRI) reporting - requires facilities that manufacture, import, process, or otherwise use regulated chemicals above threshold quantities to submit an annual report, commonly known as Form R. TRI regulations are provided at 40 CFR §372.

Who is Subject to EPCRA Form R Reporting?

Form R reporting requirements are summarized as follows:

- The facility has ten or more full-time employees; and
- The facility is in a regulated Standard Industrial Classification (SIC) Code or North American Industry Classification System (NAICS) code that is listed in 40 CFR §372.22(b.); and
- The facility manufactures, imports, processes, or uses EPCRA Section 313 chemicals in excess of the threshold quantities. The current TRI toxic chemical list contains 767 individually listed chemicals and 33 chemical categories.

In general, chemicals included in the TRI Program are those that cause cancer or other chronic human health effects, significant adverse acute human health effects, or significant adverse environmental effects.

PFAS Added to TRI Rule

On June 22, 2020, USEPA issued a final rule adding 172 per- and polyfluoroalkyl substances (PFAS) to the list of toxic chemicals subject to the TRI

reporting rule under EPCRA. The Federal Register announcement is available at:

<https://www.govinfo.gov/content/pkg/FR-2020-06-22/pdf/2020-10990.pdf>

The reporting threshold for each of the 172 PFAS chemicals is 100 pounds. By comparison, the thresholds for the vast majority of TRI chemicals are 10,000 to 25,000 pounds.

PFAS chemicals have received considerable attention from the environmental community. Much of this attention has focused on two specific PFAS chemicals: perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), both of which have been largely phased out of production in the United States. The new PFAS TRI rule covers a much longer list of 172 specific PFAS chemicals and, therefore, has the potential to require TRI reporting by existing manufacturers, importers, processors, and users.

Effective Date

The new PFAS rule went into effect on June 22, 2020. However, the rule requires PFAS to be included in TRI reports submitted for all 2020 calendar year activity (i.e., January 1 through December 31). The deadline for submitting the 2020 TRI reports is July 1, 2021.

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