



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA-HQ-OPPT-2024-0044; FRL 9427.3-02-OCSPPT]

RIN 2070-AL34

Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning with Reporting Year 2026

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is updating the list of chemicals subject to toxic chemical release reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA). Specifically, this action updates the regulations to identify one perfluoroalkyl substance that must be reported pursuant to the National Defense Authorization Act for Fiscal Year 2020 (FY 2020 NDAA) enacted on December 20, 2019. As this action is being taken to conform the regulations to a Congressional legislative mandate, notice and comment rulemaking is unnecessary.

DATES: This final rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2024–0044, is available at <https://www.regulations.gov>. Additional instructions on visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Daniel R. Ruedy, Chemical Information, Prioritization, and Toxics Release Inventory Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-7974; email

address: *ruedy.daniel@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use the chemical listed in this rule, including but not limited to entities identified with the following North American Industry Classification System (NAICS) codes.

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327*, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 113310, 211130*, 212323*, 212390*, 488390*, 512230*, 512250*, 5131*, 516210*, 519290*, 541713*, 541715* or 811490*. *Exceptions and/or limitations exist for these NAICS codes as specified by regulation (40 CFR 372.23).

- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 211130* (corresponds to SIC code 1321, Natural Gas Liquids, and SIC 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified); or 212114, 212115, 212220, 212230, 212290*; or 2211*, 221210*, 221330 (2211* and 221210 are limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); 425120 (limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 562112 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211*, 562212*, 562213*, 562219*, 562920 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems). *Exceptions and/or limitations exist for these NAICS codes.

A more detailed description of the types of facilities subject to reporting under EPCRA section 313 can be found at: <https://www.epa.gov/toxics-release-inventory-tri-program/tri-covered-industry-sectors>. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 372, subpart B. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section (see above).

B. What action is the Agency taking?

EPA is codifying the addition of the one chemical that was added to the EPCRA section 313 list of reportable chemicals (more commonly known as the Toxics Release Inventory (TRI)) since the last conforming rule (90 FR 573; January 6, 2025) (FRL-9427.2-01-OCSP) pursuant to the FY-2020 NDAA.

C. What is the Agency's authority for taking this action?

This action is issued under the authority of EPCRA section 313 (42 U.S.C. 11001 *et seq.*), section 6607 of the Pollution Prevention Act (PPA) (42 U.S.C. 13106), and section 7321 of the National Defense Authorization Act for Fiscal Year 2020 (FY 2020 NDAA) (Pub. L. 116-92).

II. Background

A. What is NDAA section 7321?

On December 20, 2019, the FY 2020 NDAA was signed into law. Among other provisions, section 7321(c) identifies certain regulatory activities that automatically add per- and polyfluoroalkyl substances (PFAS) or classes of PFAS to the EPCRA section 313 list of reportable chemicals. PFAS or classes of PFAS shall be added to the EPCRA section 313 list of reportable chemicals beginning January 1 of the calendar year after any one of the following dates:

- Final Toxicity Value. The date on which the Administrator finalizes a toxicity value for the PFAS or class of PFAS;

- Significant New Use Rule. The date on which the Administrator makes a covered determination for the PFAS or class of PFAS;
- Addition to Existing Significant New Use Rule. The date on which the PFAS or class of PFAS is added to a list of substances covered by a covered determination;
- Addition as an Active Chemical Substance. The date on which the PFAS or class of PFAS to which a covered determination applies is:

(1) Added to the list published under section 8(b)(1) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 *et seq.*) and designated as an active chemical substance under TSCA section 8(b)(5)(A); or

(2) Designated as an active chemical substance under TSCA section 8(b)(5)(B) on the list published under TSCA section 8(b)(1).

The FY 2020 NDAA defines “covered determination” as a determination made by rule under TSCA section 5(a)(2) that a use of a PFAS or class of PFAS is a significant new use (except such a determination made in connection with a determination described in TSCA sections 5(a)(3)(B) or 5(a)(3)(C)).

Under FY 2020 NDAA section 7321(e), EPA must review confidential business information (CBI) claims before PFAS are added to the list pursuant to FY 2020 NDAA section 7321, subsections (b)(1), (c)(1), or (d)(3) whose identities are subject to a claim of protection from disclosure under 5 U.S.C. 552(a), pursuant to 5 U.S.C 552(b)(4). Under the FY 2020 NDAA EPA must:

- Review a claim of protection from disclosure; and
- Require that person to reassert and substantiate or re-substantiate that claim in accordance with TSCA section 14(f) (15 U.S.C. 2613(f)).

In addition, if EPA determines that the chemical identity of a PFAS or class of PFAS qualifies for protection from disclosure, EPA must include the PFAS or class of PFAS on the TRI in a manner that does not disclose the protected information.

B. What PFAS have been added to the TRI list?

EPA has reviewed the above-listed criteria and found one chemical that meets the requirements of Section 7321 of the FY 2020 NDAA and whose identity is not claimed as CBI.

Chemical name/CASRN*	Triggering action	Effective date
Sodium perfluorohexanesulfonate (82382-12-5)	Final Toxicity Value (Ref. 1)	1/1/26
* CASRN means Chemical Abstracts Service Registry Number.		

As established by the FY 2020 NDAA, the addition of this PFAS to the EPCRA section 313 list of reportable chemicals is effective January 1 of the calendar year following any of the dates identified in FY 2020 NDAA section 7321(c)(1)(A). Accordingly, this PFAS is reportable beginning with the 2026 reporting year (i.e. reports due July 1, 2027).

Note that pursuant to EPA's final rule, entitled "Changes to Reporting Requirements for Per- and Polyfluoroalkyl Substances and to Supplier Notifications for Chemicals of Special Concern; Community Right-to-Know Toxic Chemical Release Reporting; Final Rule" (88 FR 74360, October 31, 2023 (FRL-8741-04-OCSP)), all PFAS added to TRI pursuant to FY 2020 NDAA sections 7321(b) and (c), are designated as chemicals of special concern (40 CFR 372.28), which also applies to the one PFAS identified in this rulemaking. Chemicals of special concern are excluded from the *de minimis* exemption, may not be reported on a Form A (Alternate Threshold Certification Statement), and have limits related to how and when ranges can be reported. For more information on the addition of PFAS to the list of chemicals of special concern, see 40 CFR 372.28.

III. Good Cause Exception

Section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary, as this action is being taken to

comply with a mandate in an Act of Congress, in which Congress identified actions that automatically add these chemicals to the TRI. Thus, EPA has no discretion as to the outcome of this rule, which merely aligns the regulations with the self-effectuating changes provided by the FY 2020 NDAA.

IV. References

The following is a listing of the documents specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents referenced within the documents included in the docket, even if the referenced document is not itself physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. IRIS Toxicological Review of Perfluorohexanesulfonic Acid (PFHxS, CASRN 355-46-4) and Related Salts (Final Report, 2025). U.S. Environmental Protection Agency, Washington, DC, EPA/635/R-25/012Fa, 2025. <https://iris.epa.gov/document/&deid=363894>.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44

U.S.C 3501 *et. seq.* OMB has previously approved the information collection activities contained in the existing regulations and assigned OMB control numbers 2070-0212 and 2050-0078.

Currently, the facilities subject to the reporting requirements under EPCRA section 313 and PPA section 6607 must use EPA Toxic Chemicals Release Inventory Form R (EPA Form 9350-1) for reporting TRI-listed PFAS. The one newly added PFAS is subject to the same reporting requirements as other chemicals of special concern and is excluded from certain burden-reduction reporting options (i.e., the *de minimis* exemption and the option to use Form A, range reporting). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above one or more activity thresholds and meets certain other criteria. Respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322 (42 U.S.C. 11042) and 40 CFR part 350. OMB has approved the reporting and recordkeeping requirements related to Form R, supplier notification, and petitions under OMB Control No. 2070-0212 (EPA Information Collection Request (ICR) No. 2613.07) and those related to trade secret designations under OMB Control No. 2050-0078 (EPA ICR No. 1428.12).

D. *Regulatory Flexibility Act (RFA)*

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements because the Agency has invoked the APA “good cause” exemption under 5 U.S.C. 553(b).

E. *Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate of \$100 million (in 1995 dollars and adjusted annually for inflation) or more as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. *Executive Order 13132: Federalism*

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on states, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it will not have substantial direct effects on tribal governments, or on the relationship between the Federal government and Indian tribes. This action does not impose substantial direct compliance costs on federally recognized Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it does not concern an environmental health or safety risk. Since this action does not concern human health, EPA's 2021 Policy on Children's Health also does not apply.

Although this action does not concern an environmental health or safety risk, this reporting rule will aid in collecting information regarding PFAS. This rule will be of use in identifying releases of PFAS to which children may be exposed. EPA believes that the information obtained as a result of this action could also be used by the public, government agencies, and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential human health or environmental risks related to PFAS, including those that may disproportionately affect children.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulation action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards under the NTTAA section 12(d), 15 U.S.C. 272.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Lee Zeldin,

Administrator.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR part 372 as follows:

PART 372—TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

2. Amend § 372.65 by:

a. In paragraph (d) in table 4, adding in alphabetical order an entry for “Sodium perfluorohexanesulfonate”.

b. In paragraph (e) in table 5, adding in numerical order entry for “82382-12-5”.

The additions read as follows:

§ 372.65 Chemicals and chemical categories to which this part applies.

* * * * *

(d) * * *

Table 4 to Paragraph (d)

Chemical name	CASRN¹	Effective date
Sodium perfluorohexanesulfonate	82382-12-5	1/1/26

¹CASRN means Chemical Abstracts Service Registry Number.

(e) * * *

Table 5 to Paragraph (e)

CASRN¹	Chemical name	Effective date
82382-12-5	Sodium perfluorohexanesulfonate	1/1/26

¹CASRN means Chemical Abstracts Service Registry Number.