THE TOXIC RELEASE INVENTORY (TRI)

PACE® SPOTLIGHT ON PFAS ISSUES AND REGULATIONS

ABOUT THIS PAPER

The Pace® Spotlight series is designed to shed light on important topics of concern to our clients. Wherever possible, we try to educate as well as provide actionable information.

ACRONYMS

CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act

EPCRA – Emergency Planning and Community Right to Know Act

NDAA – National Defense Authorization Act

SNUR – Significant New Use Rule

TRI – Toxic Release Inventory

WHAT IS THE TOXIC RELEASE INVENTORY?

Created in 1986 under the Emergency Planning and Community Right-to-Know Act (EPCRA), the Toxic Release Inventory (TRI) tracks toxic chemical releases from industrial facilities into the environment. This information is made available to the public in the U.S. EPA's **online TRI search tool**.

Although TRI has been around for more than three decades, it wasn't until 2019 that the first PFAS were added to the TRI industry reporting requirements. As of reporting year 2024, the number of PFAS chemicals included in TRI now stands at 196. In addition, PFAS have been classified as "chemicals of special concern," eliminating *de minimus* exemptions for reporting year 2024 and beyond.

WHAT YOU NEED TO KNOW

- TRI is a reporting requirement; not a regulatory control on the amount of chemicals released into the environment.
- The number of PFAS included in TRI continues to grow. Some additions are triggered automatically, such as when CBI (Confidential Business Information) claims for the use or manufacture of a compound are determined to be no longer valid.
- PFAS are not always clearly labeled or spelled out on material safety data sheets (MSDS).
- Fluorinated plastics can also contain PFAS, which can be leached into the container's contents.
- Low-level exemptions (*de minimus*) for PFAS have been eliminated for reporting year 2024.
- PFAS does not have to be released directly into the environment. For example, release to a waste disposal facility is still considered a release into the environment under TRI.
- Businesses should consult the U.S. EPA's list of covered industry sectors to see if they are included or exempted from reporting.

INDUSTRIES COVERED BY TRI

Not all industry sectors are required to report, but the list is expansive. Refer to the EPA's **TRI-Covered Industry Sectors** page for details of those businesses included as well as exemptions from the program. A small sample of the types of businesses covered are listed below. Many of the businesses required to report may not use the covered PFAS in their operations, but as the list of PFAS included in TRI grows, all businesses should carefully examine the chemicals used in their operations.

- Chemicals Manufacturing
- Electronics Manufacturing
- Farming
- Food & Beverage Manufacturing
- Incinerators
- Landfills
- Logging
- Oil & Gas
- Primary & Fabricated Metals
- Publishing
- Pulp & Paper
- Textile & Apparel Manufacturing

PFAS INCLUDED IN TRI

The U.S. EPA adds chemicals to the TRI reporting requirements based on three criteria. These chemicals are expected or known to cause:

- Cancer or other chronic human health effects
- Significant adverse acute human health effects
- Significant adverse effects on the environment

The National Defense Authorization Act (NDAA) also provides a framework for automatically adding new PFAS every year. On January 9, 2024, the EPA announced the addition of **seven PFAS** to the Toxic Inventory Control (TRI) reporting requirements, bringing the total number of PFAS covered by TRI to 196. Six of the PFAS were automatically added due to the finalization of their toxicity values. These six include:

- Ammonium perfluorohexanoate; Chemical Abstract Service Registration Number (CASRN) 21615-47-4
- Lithium bis[(trifluoromethyl)sulfonyl] azanide; CASRN 90076-65-6
- Perfluorohexanoic acid (PFHxA); CASRN 307-24-4
- Perfluoropropanoic acid (PFPrA); CASRN 422-64-0
- Sodium perfluorohexanoate; CASRN 2923-26-4
- 1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide; CASRN 82113-65-3

A seventh (betaines, dimethyl(.gamma.-.omega.-perfluoro-.gamma.-hydro-C8-18-alkyl); CASRN 2816091-53-7) was added automatically due to declassification under TSCA.

The full list of PFAS for reporting years 2023 and 2024 can be found **here**.

FAQ: WHAT IS CONSIDERED A "RELEASE" OF CHEMICALS UNDER TRI?

For the purposes of TRI reporting, both accidental and planned releases into the environment must be reported. Accidental releases are, of course, unplanned incidents that release the covered compounds into the environment. This can include more than just chemical spills. For example, the unintended release of PFAS compounds in stack emissions or through incomplete combustion disposal methods may be included in this category.

Planned releases include the purposeful disposal of covered compounds. It's important to note that the release does not have to be directly into the environment. For example, if a facility transfers hazardous waste to a processor for disposal, this is considered to be a release into the environment under TRI.

FAQ: DO I NEED TO REPORT AFFF STORAGE OR RELEASE?

The legacy aqueous film-forming foam (AFFF) used to fight Class B chemical fires frequently contains PFAS. This foam has a long shelf-life, and a facility covered under TRI may have these compounds in storage. AFFF stored safely and securely may not need to be reported. However, if the foam is used to fight a fire, there is an accidental discharge, or a leakage is discovered, these releases must be reported. Always consult a compliance expert for the latest reporting requirements.

FAQ: HOW IS THE TRI DATA USED?

TRI was initiated under the auspices of the 1986 Emergency Planning and Community Right-to-Know Act (EPCRA) to support informed decision-making by companies, government agencies, non-governmental organizations, and the public. While TRI does not set limits on the quantity of compounds that can be released into the environment, nor on the methods of disposal, the EPA and other agencies may leverage the data from TRI to determine enforceable limits and impose mandatory processes under other programs.

HOW PACE® CAN HELP

Some industrial uses of PFAS are easy to identify, but many organizations may not know whether the chemicals used in their operations are covered under TRI. Here are some ways Pace® helps customers maintain compliance.

- Labels and material safety data sheets are not always clear. Our PFAS experts are happy to review your documents to help you spot potential TRI-listed compounds.
- TRI-covered entities may want to test wastewater effluent to ensure compliance with reporting requirements. Pace® offers several wastewater test methods and can help you choose the right method for your scenario and compliance requirements.
- We can analyze commercial waste prior to disposal or transfer to a waste disposal facility to help ensure compliance with all release reporting requirements.
- For landfill operators (commercial or industrial), we can analyze leachate for PFAS.
- For wastewater treatment facilities, we offer influent and effluent testing for PFAS and PFAS precursors. We can also test biosolids for the presence of PFAS.
- We can help you uncover unexpected sources of PFAS, such as compounds used as industrial aids or PFAS leached from fluorinated plastic containers.

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