

addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 10, 2024.

Edward Messina,
Director, Office of Pesticide Programs.

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

PART 174—PROCEDURES AND REQUIREMENTS FOR PLANT—INCORPORATED PROTECTANTS

- 1. The authority citation for part 174 continues to read as follows:

Authority: 7 U.S.C. 136–136y; 21 U.S.C. 321(q), 346a and 371.

- 2. Add § 174.546 to subpart W to read as follows:

§ 174.546 *Bacillus thuringiensis* Cry1B.868 and Cry1Da_7 proteins; exemption from the requirement of a tolerance.

Residues of *Bacillus thuringiensis* Cry1B.868 and Cry1Da_7 proteins in or on the food and feed commodities of corn: corn, field; corn, sweet; and corn, pop are exempt from the requirement of a tolerance when used as a plant-incorporated protectant in corn.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–OPPT–2024–0044; FRL–9427.1–01–OCSP]

RIN 2070–AL04

Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances (PFAS) to the Toxics Release Inventory Beginning With Reporting Year 2024

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) 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 seven per- and polyfluoroalkyl substances (PFAS) that must be reported pursuant to the National Defense Authorization Act for Fiscal Year 2020 (FY2020 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 June 17, 2024.

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: Harichandana Karne, Data Gathering, Management and Policy Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0595; email address: karne.harichandana@epa.gov.

For general information: The Emergency Planning and Community Right-to-Know Act Hotline; telephone numbers: toll free at (800) 424–9346 (select menu option 3) or (703) 348–5070 in the Washington, DC Area and International; or go to <https://www.epa.gov/home/epa-hotlines>.

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 any of the PFAS 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*, 11998*, 113310, 211130*, 212323*, 212390*, 488390*, 512230*, 512250*, 5131*, 516210*, 519290*, 541713*, 541715* or 811490*.

*Exceptions and/or limitations exist for these NAICS codes.

- 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 (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.

- Federal facilities.

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 under **FOR FURTHER INFORMATION CONTACT**.

B. What action is the Agency taking?

EPA is codifying the addition of the seven PFAS that were added to the EPCRA section 313 list of reportable chemicals (more commonly known as the Toxics Release Inventory (TRI)) since the last conforming rule pursuant to the FY2020 NDAA (87 FR 42651, July 18, 2022 (FRL–9427–01–OCSPP)).

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

This action is issued under 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 FY2020 NDAA (Pub. L. 116–92).

II. Background

A. What is NDAA section 7321?

On December 20, 2019, the FY2020 NDAA was signed into law. Among other provisions, section 7321(c) identifies certain regulatory activities that automatically add 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 FY2020 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 FY2020 NDAA section 7321(e), EPA must review confidential business information (CBI) claims before PFAS are added to the list pursuant to FY2020 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 FY2020 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 seven chemicals that meet the requirements of this part of the FY2020 NDAA and whose identity is not claimed as CBI.

Chemical name/CASRN *	Triggering action	Effective date
Perfluorohexanoic acid (PFHxA) (307–24–4)	Final Toxicity Value (Ref. 1)	1/1/24
Perfluoropropanoic acid (PFPrA) (422–64–0)	Final Toxicity Value (Ref. 2)	1/1/24
Sodium perfluorohexanoate (2923–26–4)	Final Toxicity Value (Ref. 1)	1/1/24
Ammonium perfluorohexanoate (21615–47–4)	Final Toxicity Value (Ref. 1)	1/1/24
1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide (TFSI) (82113–65–3)	Final Toxicity Value (Ref. 3)	1/1/24
Lithium bis[(trifluoromethyl)sulfonyl] azanide (90076–65–6)	Final Toxicity Value (Ref. 3)	1/1/24
Betaines, dimethyl(.gamma.-.omega.-perfluoro-.gamma.-hydro-C8-18-alkyl) (2816091–53–7) ...	CBI Declassification (Ref. 4) ...	1/1/24

* CASRN means Chemical Abstracts Service Registry Number.

Under FY2020 NDAA section 7321(e), EPA must review CBI claims before PFAS 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)) are added to the list. The substance with the CASRN 2816091–53–7 met the criteria under FY2020 NDAA section 7321(c)(1)(A)(iii) but was subject to a claim of protection from disclosure under 5 U.S.C. 552(b)(4) at that time (*i.e.*, when the FY2020 NDAA was enacted). This substance’s identity has since published on the non-confidential portion of the TSCA Inventory in 2023; therefore, pursuant to FY2020 NDAA section 7321(e) the chemical was added to the TRI list and is being codified in the regulatory list by this rulemaking.

As established by the FY2020 NDAA, the addition of these 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 FY2020 NDAA section 7321(c)(1)(A). Accordingly, these seven PFAS are reportable beginning with the 2024 reporting year (*i.e.*, reports due July 1, 2025), and EPA is issuing this final rule to amend the EPCRA section 313 list of reportable chemicals in 40 CFR 372.65 to include the seven non-CBI PFAS added pursuant to the FY2020 NDAA.

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–

OCSPP)), all PFAS added to TRI pursuant to FY2020 NDAA sections 7321(b) and (c), are designated as chemicals of special concern (40 CFR 372.28), which also applies to the seven 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 reporting requirements. For more information on the addition of PFAS to the list of chemicals of special concern, see 40 CFR 372.280.

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. This action is being taken to comply with a mandate in an Act of Congress, where 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 FY2020 NDAA.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are 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. Toxicological Review of Perfluorohexanoic Acid (PFHxA) and Related Salts (Final Report, 2023). EPA/635/R-23/027F. 2023.
2. EPA. ORD Human Health Toxicity Value for Perfluoropropanoic Acid (CASRN 422-64-0 | DTXSID8059970). EPA/600/R-22-042F. 2023.
3. EPA. ORD Human Health Toxicity Value for Lithium bis [(trifluoromethyl)sulfonyl]azanide (HQ-115) (CASRN 90076-65-6 | DTXSID8044468). EPA/600/R-22/195F. 2023.
4. EPA. Non-CBI TSCA Inventory, February 2024.

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 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to review under Executive Order 12866.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The Office of Management and Budget (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). The seven newly added PFAS are subject to the same reporting requirements as other chemicals of special concern and are 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 threshold quantities 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. 2613.04) and those related to trade secret designations under OMB Control No. 2050-0078 (EPA ICR No. 1428.12).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers relevant to EPA's regulations in 40 CFR are listed in 40 CFR part 9 and displayed on the information collection instruments (*e.g.*, forms, instructions).

C. 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. As discussed in Unit III., this rule is not subject to notice and comment requirements because the Agency has invoked the APA "good cause" exception under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million 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.

E. 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.

F. 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, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. It does not have substantial direct effects on Tribal governments because EPA does not anticipate that reporting of the PFAS added to the TRI list in this action will be conducted by Tribes, so this rulemaking is not expected to impose substantial direct compliance costs on Tribal governments.

G. 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.

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

This action is not a significant energy action as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have any adverse effect on the supply, distribution or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. As such, NTTAA section 12(d), 15 U.S.C. 272, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice a part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color) and low-income populations.

EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action involves additions to reporting requirements that will not affect the level of protection provided to human health or the environment.

Although this action does not concern human health or environmental conditions, EPA may identify and address environmental justice concerns through information collected under TRI. The information obtained as a result of this rulemaking will lead to a better understanding of PFAS releases, which can help inform and tailor future EPA actions regarding PFAS. For example, EPA may identify and address environmental justice concerns as a result of the new PFAS information collected under this rule. The action will also better inform communities living near facilities that report to TRI, by providing them with information about PFAS releases and waste management practices occurring in their communities. Overall, EPA believes that the information obtained as a result of this action could be used by the public (including people of color, low-income populations and/or indigenous peoples) to inform their behavior as it relates to potential exposure to PFAS and by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential human health or environmental risks from PFAS.

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.

Dated: May 9, 2024.
Michal Freedhoff,
Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I 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:
 - a. In table 4 to paragraph (d), by:
 - i. Revising the heading to the second column;
 - ii. Adding in alphabetical order entries for “Ammonium perfluorohexanoate”; “Betaines, dimethyl(γ-ω-perfluoro-γ-hydro-C8-18-alkyl)”; “Lithium bis[(trifluoromethyl)sulfonyl] azanide”; “Perfluorohexanoic acid”; “Perfluoropropanoic acid”; “Sodium perfluorohexanoate”; and “1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide”; and
 - iii. Adding a note to the end of the table.
 - b. In table 5 to paragraph (e), by:
 - i. Revising the heading to the first column;
 - ii. Adding in numerical order entries for “307–24–4”; “422–64–0”; “2923–26–4”; “21615–47–4”; “82113–65–3”; “90076–65–6”; and “2816091–53–7”; and
 - iii. Adding a note to the end of the table.
- The additions and revisions read as follows:
- § 372.65 Chemicals and chemical categories to which this part applies.**
- * * * * *
- (d) * * *

TABLE 4 TO PARAGRAPH (d)						
Chemical name					CASRN ¹	Effective date
*	*	*	*	*	*	*
Ammonium perfluorohexanoate					21615–47–4	1/1/24
*	*	*	*	*	*	*
Betaines, dimethyl(γ-ω-perfluoro-γ-hydro-C8-18-alkyl)					2816091–53–7	1/1/24
*	*	*	*	*	*	*
Lithium bis[(trifluoromethyl)sulfonyl] azanide					90076–65–6	1/1/24
*	*	*	*	*	*	*
Perfluorohexanoic acid					307–24–4	1/1/24
*	*	*	*	*	*	*
Perfluoropropanoic acid					422–64–0	1/1/24

TABLE 4 TO PARAGRAPH (d)—Continued

Chemical name	CASRN ¹	Effective date
Sodium perfluorohexanoate	2923–26–4	1/1/24
1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide	82113–65–3	1/1/24

¹ CASRN means Chemical Abstracts Service Registry Number.

(e) * * *

TABLE 5 TO PARAGRAPH (e)

CASRN ¹	Chemical name	Effective date
307–24–4	Perfluorohexanoic acid	1/1/24
422–64–0	Perfluoropropanoic acid	1/1/24
2923–26–4	Sodium perfluorohexanoate	1/1/24
21615–47–4	Ammonium perfluorohexanoate	1/1/24
82113–65–3	1,1,1-Trifluoro-N-[(trifluoromethyl)sulfonyl] methanesulfonamide	1/1/24
90076–65–6	Lithium bis[(trifluoromethyl)sulfonyl] azanide	1/1/24
2816091–53–7	Betaines, dimethyl(γ-ω-perfluoro-γ-hydro-C8-18-alkyl)	1/1/24

¹ CASRN means Chemical Abstracts Service Registry Number.

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