

# EPA Announces Plans to Require Additional Chemical Reporting under its Toxic Release Inventory

## Publications

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On Friday, April 30, 2021, the Biden Administration's Environmental Protection Agency (EPA) announced significant steps the agency intends to take under the Toxics Release Inventory (TRI) Program to implement expanded reporting requirements for companies that store and utilize hazardous chemicals, including new obligations to report the storage, use and any releases of ethylene oxide, a commonly used industrial chemical and sterilant for medical equipment and supplies. The TRI Program, which was established under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), serves as a resource for the public to learn about annual chemical releases, waste management, and pollution prevention activities reported by nearly 22,000 industrial and federal facilities. Under the TRI Program, U.S. facilities operating in various industry sectors must report annually the quantity of certain chemicals they release to the environment and/or manage through recycling, energy recovery and treatment. A "release" of a chemical in the context of the TRI Program means that the chemical is emitted to the air or water, or placed in some type of land disposal.

A major component of EPA's announcement is the agency's intent to regulate ethylene oxide. The use and release of ethylene oxide by medical device sterilization companies have prompted a number of recent high-profile lawsuits alleging that releases of the chemical into the environment have caused increased cancer rates in communities adjacent to the facilities. EPA's announcement notes that many existing sterilization facilities "are located near areas with Environmental Justice concerns," and that individuals living adjacent to these facilities may be at a heightened risk from exposure to ethylene oxide. "Every person in the United States has a right to know about what chemicals are released into their communities," EPA Administrator Michael S. Regan stated. "By requiring new and more data on chemical releases from facilities, EPA and its partners will be better equipped to protect the health of every individual, including people of color and low-income communities that are often located near these facilities but have been left out of the conversation for too long." In the coming months, EPA will provide further details regarding the specific actions the agency intends to take to require sterilization facilities that use ethylene oxide to report under the TRI Program.

In addition to implementing new reporting requirements for companies utilizing ethylene oxide, EPA announced several other steps the agency plans to take that will increase reporting and public access to information under the TRI Program, including:

- Finalizing a longstanding proposed rule that will add natural gas processing facilities to the industry sectors covered under the TRI Program thereby increasing the publicly available information on chemical releases and other waste management activities of TRI-listed chemicals from this sector;
- Continuing to add new per- and polyfluoroalkyl substances (“PFAS”) to the list of chemicals that require reporting under the TRI Program, including the addition of perfluorobutane sulfonic acid (PFBS) following EPA’s toxicity assessment of the substance;
- Proposing a new rule to add high-priority substances under the Toxic Substances Control Act (TSCA) and chemicals included in the TSCA workplan to the list of chemicals that require reporting under the TRI Program; and
- Increasing public access to TRI data through improved search functionality and improved website interface.

EPA’s announcement marks the most recent step by the agency to implement the Biden Administration’s focus on environmental justice as a top priority of its environmental agenda. On the same day that EPA announced the agency’s updated TRI policy, EPA circulated a memorandum to all EPA-staff, indicating the additional actions the agency intends to take to fulfill its environmental justice commitment. These actions include: (1) increasing inspections of facilities that pose the most serious threats to overburdened communities; (2) focusing on implementing remedies that benefit communities, including through the incorporation of supplemental environmental projects; (3) increasing communications with overburdened communities to develop improved cleanup and non-compliance solutions; and (4) identifying locations where state regulators are not adequately protecting local communities and taking increased enforcement actions to “pick up the slack” if state regulators have not taken appropriate or timely actions.

The *Corporate Environmental Blog* will continue to follow developments on this issue in the coming months as EPA provides additional details on the specific actions it intends to take to expand the TRI Program.

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