

# U.S. EPA Announces Plan to Tighten PFAS Reporting Requirements

## Publications

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In connection with the release of its 2020 Toxics Release Inventory (TRI) National Analysis that evidenced a 10% decline in environmental releases of TRI chemicals between 2019 and 2020, U.S. EPA announced that it intends to initiate a rulemaking that will, among other things, remove the *de minimis* exemption for reporting the 172 per- and polyfluoroalkyl substances (PFAS) that were added to TRI by the 2020 National Defense Authorization Act.

The TRI analysis report noted that 38 facilities reported managing 800,000 pounds of PFAS in 2020 but only 9,000 pounds of PFAS were reported as having been released. In response to what U.S. EPA claims to be a “seemingly limited scope of PFAS reporting”, U.S. EPA stated that it intends to “use existing data to generate lists of potential productions and recipients of PFAS waste, and has contacted facilities with potential reporting errors, as well as those that were expected to report but did not.” In addition, U.S. EPA claims that “the elimination of the *de minimis* exemption will result in a more complete picture of [PFAS] releases and other waste management quantities for these chemicals.”

The *de minimis* exemption, which allows covered facilities to disregard certain minimal levels of listed toxic chemicals in mixtures or trade name products, has been strongly criticized by a number of environmental groups. The *de minimis* level for perfluorooctanoic acid is 0.1% and for all other TRI-listed PFAS is 1.0%. Litigation is currently pending in the U.S. District Court for the District of Columbia challenging U.S. EPA’s inclusion of the *de minimis* PFAS reporting threshold and this rulemaking may be an effort by U.S. EPA to respond to that litigation.

We will continue to provide updates on U.S. EPA’s efforts to strip the *de minimis* TRI reporting exemption for PFAS as well as other PFAS-related issues on the Corporate Environmental Lawyer blog.

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