



# Compliance Advisory

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Compliance & Enforcement #2021-01 Issued: 1/26/2021

## Right to Know and Pollution Prevention Requirements Added for Newly Reportable Chemicals

### WHO IS AFFECTED BY THIS ADVISORY?

Facilities in New Jersey subject to the Community Right to Know (CRTK) and Pollution Prevention (P2) programs will be subject to reporting Per- and Polyfluoroalkyl Substances (PFAS) and the Nonylphenol Ethoxylates (NPE) category on the CRTK Survey and the Release and Pollution Prevention Report (RPPR) for 2020. There are 172 unique PFAS chemicals and the NPE category covers 13 unique chemicals to be aggregated and reported under the compound category. ([see list](#))

### WHY IS DEP ISSUING THIS ADVISORY?

The National Defense Authorization Act for Fiscal Year 2020 (NDAA) identified 14 chemicals by name and/or Chemical Abstract Service Registry Number (CASRN) in Section 7321(b) and identified additional PFAS based on certain criteria. PFAS are listed as an active chemical substance in the February 2019 update to the TSCA Inventory under section 8(b)(1) and (ii) on the date of enactment of the NDAA. EPA has reviewed the above-listed criteria and found 170 chemicals that are not subject to a claim of protection from disclosure and meet the requirements of the NDAA. Twelve of these are among the 14 PFAS specifically listed in the NDAA; with the addition of the other two, there are a total of 172 PFAS subject to listing under the NDAA.

Section 7321 of the (NDAA), therefore, adds 172 per- and polyfluoroalkyl substances (PFAS) to the list of chemicals covered by the federal Toxics Release Inventory (TRI) under Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). On June 22, 2020, EPA took the next step to implement an important per- and polyfluoroalkyl substances (PFAS) requirement of the National Defense Authorization Act (NDAA) by publishing a [final rule that officially incorporates these requirements into the Code of Federal Regulations for TRI](#). This action will expand the scope of chemicals subject to TRI reporting and provide communities with more complete information on toxic chemical releases.

Further, EPA published a rule on June 12, 2018 (83 FR 27291), adding a Nonylphenol Ethoxylates (NPEs) category to the TRI list of reportable chemicals. Reporting on the new NPEs category was effective for reporting year 2019 so the first TRI reports were due by July 1, 2020, for the 2019 chemical data. The NPEs category covers 13 unique chemicals. NPEs are nonionic surfactants used in adhesives, wetting agents, emulsifiers, stabilizers, dispersants, defoamers, cleaners, paints, and coatings. EPA is adding this chemical category to the EPCRA section 313 list because EPA has determined that NPEs meet the EPCRA section 313(d)(2)(C) toxicity criteria. Specifically, EPA has determined that short-chain NPEs are highly toxic to aquatic organisms and longer chain NPEs, while not as toxic as short-chain NPEs, can break

# Compliance Advisory

down in the environment to short-chain NPEs and nonylphenol, both of which are highly toxic to aquatic organisms.

## WHAT SHOULD I DO?

Track the uses of these chemicals at your facility to accurately prepare for the required reports in the upcoming year. Facilities in New Jersey will be subject to reporting PFAS on the CRTK and the RPPR for 2020. The threshold for reporting on the CRTK Survey by March 1, 2021 will be 500 pounds at any one time. The annual threshold for the RPPR due by July 1, 2021 will be 100 pounds of Manufacture, Process or Otherwise Use. The de minimis level for Perfluorooctanoic acid (PFOA) (CASRN: 335-67-1) is 0.1%. All the other PFAS additions have a de minimis level of 1%.

Additionally, the NPEs were reportable for 2019. DEP staff will be reviewing TRI submissions for report year 2019 and contact facilities for updates to their 2019 CRTK Surveys and RPPRs. You may be proactive and update these reports before being contacted by the DEP. The NPE category is subject to the 25,000-pound Manufacture or Process thresholds and the 10,000-pound Otherwise Use threshold with a de minimis level of 1.0%.

## WHO SHOULD I CONTACT WITH QUESTIONS?

For questions on CRTK reporting please contact the Department via e-mail at [RTK@dep.nj.gov](mailto:RTK@dep.nj.gov).

For questions on the RPPR, please contact the Bureau of Compliance Support & Pollution Prevention via e-mail at [rpprp2@dep.nj.gov](mailto:rpprp2@dep.nj.gov) or by phone at 609-777-0518.

## WHERE CAN I GET MORE INFORMATION?

**The following web sites can be accessed for additional information regarding this advisory:**

- NJ CRTK Environmental Hazardous Substance List – Newly Added Substances for Report Year 2020 - in CAS Number & RTK Substance Number Order: <https://www.nj.gov/dep/enforcement/opppc/crtk/ehssub2020.pdf>
- NJ CRTK Environmental Hazardous Substance Lists: <https://www.nj.gov/dep/enforcement/opppc/crtk/figdoc.htm>
- The Community Right to Know site: <https://www.nj.gov/dep/enforcement/crtk.html>
- The Pollution Prevention program: <https://www.nj.gov/dep/enforcement/pp.html>
- Implementing Statutory Addition of Certain Per- and Polyfluoroalkyl Substances to the TRI Chemical List: <https://www.epa.gov/toxics-release-inventory-tri-program/implementing-statutory-addition-certain-and-polyfluoroalkyl>
- Addition of certain PFAS to TRI: <https://www.epa.gov/toxics-release-inventory-tri-program/addition-certain-pfas-tri-national-defense-authorization-act>
- Addition of certain NPEs category to TRI: <https://www.epa.gov/toxics-release-inventory-tri-program/addition-npes-category-tri-list-final-rule>
- The Air Pollution site: <https://www.state.nj.us/dep/aqpp/>
- The Small Business Environmental Assistance Program: <https://www.nj.gov/dep/aqes/sbap/index.html>

# Compliance Advisory

- For general NJDEP information (Contact NJDEP): <https://www.nj.gov/cgi-bin/dep/contactdep.pl>
- To comment on this advisory: <https://www.nj.gov/dep/enforcement/survey.html>

Please note this advisory is intended to be a summary explanation of department requirements. It does not include all potentially applicable requirements. If you have any questions related to compliance, please contact an Enforcement number listed above.