

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to RME ID No. R03-OAR-2004-WV-0002. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov websites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 7012

MacCorkle Avenue, SE., Charleston, WV 25304-2943.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, approving the redesignation request and maintenance plan for the City of Weirton, including the Clay and Butler Magisterial Districts, SO<sub>2</sub> nonattainment area, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: December 14, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 05-417 Filed 1-7-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[R06-OAR-2004-NM-0001; FRL-7858-6]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Bernalillo County, NM; Negative Declarations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a negative declaration submitted by the City of Albuquerque (Bernalillo County), New Mexico, certifying that there are no existing commercial and industrial solid waste incineration units in Bernalillo County subject to the requirements of sections 111(d) and 129 of the CAA.

**DATES:** Written comments must be received by February 9, 2005.

**ADDRESSES:** Comments may be submitted electronically, by mail, by facsimile, or through hand delivery/courier by following the detailed instructions provided under the "Public Participation" heading in the **SUPPLEMENTARY INFORMATION** section of direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth W. Boyce, Air Planning Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2833, at (214) 665-7259 or [boyce.kenneth@epa.gov](mailto:boyce.kenneth@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of this

**Federal Register**, EPA is approving a negative declaration submitted by the City of Albuquerque Environmental Health Department certifying that there are no existing applicable commercial and industrial solid waste incineration units subject to 40 CFR part 60, subparts CCCC and DDDD, under its jurisdiction in the City of Albuquerque, Bernalillo County (excluding tribal lands), within the jurisdictions of the respective State and local agencies. EPA is approving sections 111(d)/129 State Plans as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comments, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent direct final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

Dated: December 21, 2004.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 05-341 Filed 1-7-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[TRI-2004-0001; FRL-7532-3]

RIN 2025-AA15

#### Toxics Release Inventory Reporting Forms Modification Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), the Environmental Protection Agency (EPA) proposes to revise certain requirements

for the Toxic Chemical Release Inventory. The purpose of these revisions is to reduce reporting burden associated with the Toxic Chemical Release Inventory Reporting requirements without compromising the usefulness of the information to the public. This proposal is one of several efforts being undertaken by EPA to reduce the reporting burden associated with the Agency's Toxics Release Inventory (TRI) program. It is not anticipated to impact any protections for human health and the environment. The Agency will continue to provide valuable information to the public pursuant to EPCRA section 313 and the Pollution Prevention Act regarding toxic chemical releases and other waste management activities.

If adopted, today's proposed action would simplify a number of TRI reporting requirements; remove some data elements from the Form R and Form A Certification Statement (hereafter referred to as Form A) that can be obtained from other EPA information collection databases, or are rarely used, and update the regulations to provide corrected contact information and descriptions of the Forms R and A data elements. EPA expects these proposed changes to improve TRI reporting efficiency and effectiveness, as well as reduce reporting burden.

**DATES:** Comments, identified by the Docket ID No. TRI-2004-0001, must be received on or before March 11, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. TRI-2004-0001, by one of the following methods:

1. *Agency Web Site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

2. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

3. *E-mail:* [oei.docket@epa.gov](mailto:oei.docket@epa.gov).

4. *Fax Number:* 202-566-0741.

5. *Mail:* Office of Environmental Information (OEI) Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. TRI-2004-0001.

6. *Hand Delivery:* EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004, telephone: 202-566-1744, Attention Docket ID No. TRI-2004-0001. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays). Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. TRI-2004-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the federal [regulations.gov](http://www.regulations.gov) Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** EPA has established an official public docket for this action under Docket ID No. TRI-2004-0001. The public docket contains information considered by EPA in developing this proposed rule, including the documents listed below, which are electronically or physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are electronically or physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not electronically or physically located in the docket, please consult the person listed in the following **FOR FURTHER INFORMATION CONTACT** section. All documents in the docket are listed in the EDOCKET index at: <http://www.epa.gov/edocket>.

Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET, or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744, and the telephone number for the OEI Docket is 202-566-1752.

**FOR FURTHER INFORMATION CONTACT:**

Shelley Fudge, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-566-0674; fax number: 202-566-0741; e-mail: [fudge.shelley@epa.gov](mailto:fudge.shelley@epa.gov), for specific information on this proposed rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1-800-424-9346, in Virginia and Alaska: 703-412-9810 or Toll free TDD: 1-800-553-7672.

**SUPPLEMENTARY INFORMATION:**

**General Information**

*A. Does This Document Apply to Me?*

This document applies to facilities that submit annual reports under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). It specifically applies to those who submit the TRI Form R or Form A Certification Statement. (See <http://www.epa.gov/tri/report/index.htm#forms> for detailed information about EPA's TRI reporting forms.) To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

This document also is relevant to those who utilize EPA's TRI information, including State agencies, local governments, communities, environmental groups and other non-

governmental organizations, as well as members of the general public.

### *B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible.

8. Make sure to submit your comments by the comment period deadline identified.

2. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address only, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OEI Document Control Officer, Mail Code: 2822T, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC, 20460. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). EPA will disclose information claimed as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be

submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### **Index**

- I. What Is EPA's Statutory Authority for Taking These Actions?
- II. What Is the Background and Purpose of Today's Proposed Rulemaking?
  - A. What are the Toxics Release Inventory Reporting Requirements and Who Do They Affect?
  - B. What Are We Proposing To Reduce Burden Associated With TRI Reporting Requirements?
  - C. What Led to the Development of This Proposed Rule?
- III. What Reporting Requirement Changes Are Being Proposed?
  - A. Replacement of Certain Facility Data Reporting Requirements With Existing EPA Data From the EPA Facility Data Registry (Sections 4.6 and 4.8 through 4.10 of Forms A and R)
  - B. Removal of Reporting Requirement for Determining the Percentage of the Total Quantity of Toxic Chemicals Contributed by Stormwater (Part II, Section 5.3 Column C)
  - C. Modifications to the Reporting Requirement for On-Site Waste Treatment Methods and Efficiency (Part II, Section 7)
  - D. Removal of Reporting Data Field for Optional Submission of Additional Information (Part II, Section 8.11)
- IV. Technical Modifications to 40 CFR 372.85
- V. What Are the Statutory and Executive Order Reviews Associated With This Action?
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks
  - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act
  - J. Environmental Justice

### **I. What Is EPA's Statutory Authority for Taking These Actions?**

This proposed rule is being issued under sections 313(g)(1) and 328 of

EPCRA, 42 U.S.C. 11023(g)(1) and 11048; and section 6607(b) of the Pollution Prevention Act (PPA), 42 U.S.C. 13106. In general, section 313 of EPCRA and section 6607 of PPA require owners and operators of facilities in specified SIC codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility-specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. In addition, Congress granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 authorizes the "Administrator [to] prescribe such regulations as may be necessary to carry out this chapter." 42 U.S.C. 11048.

### **II. What Is the Background and Purpose of Today's Proposed Rulemaking?**

#### *A. What Are the Toxics Release Inventory Reporting Requirements and Who Do They Affect?*

Pursuant to section 313(a) of the Emergency Planning and Community Right-to-Know Act (EPCRA), certain facilities that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State officials toxic chemical release forms containing information specified by EPA. 42 U.S.C. 11023(a). These reports must be filed by July 1 of each year for the previous calendar year. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals. 42 U.S.C. 13106. These reports are compiled and stored in EPA's database known as the Toxics Release Inventory (TRI).

Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

- The facility has 10 or more full-time employee equivalents (*i.e.*, a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and
- The facility is included in Standard Industrial Classification (SIC) Codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20–39, 4911 (limited to facilities that combust coal and/or oil

for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under RCRA Subtitle C, 42 U.S.C. section 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis), (or, under Executive Order 13148, federal facilities regardless of their SIC code); and

- The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established threshold for the specific chemical in the course of a calendar year.

Facilities that meet the criteria must file a Form R report or in some cases, may submit a Form A Certification Statement for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), the report for any calendar year must be submitted on or before July 1 of the following year. For example, reporting year 2003 data should have been postmarked on or before July 1, 2004.

The list of toxic chemicals subject to TRI can be found at 40 CFR 372.65. This list is also published every year as Table II in the current version of the Toxic Chemical Release Inventory Reporting Forms and Instructions. The current TRI chemical list contains 582 individually listed chemicals and 30 chemical categories.

#### *B. Why Are We Proposing To Reduce Burden Associated With TRI Reporting Requirements?*

“Burden” is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA has made considerable progress in reducing burden associated with its various information collections through streamlining, consolidating and harmonizing regulations, guidance and compliance assistance, and implementing technology-based processes (i.e., electronic reporting, cross program data utilization, using geospatial information to pre-populate data fields). These measures have reduced the time, cost, and complexity of existing environmental reporting requirements, while enhancing reporting effectiveness and efficiency.

The purpose of today’s action is to propose options for reducing burden on facilities that submit annual TRI reports without compromising the data quality of toxic chemical release and other waste management information. The options described in this proposal provide several relatively simple options for reducing the time, cost and complexity of the reporting requirements imposed on facilities. They are thus expected to result in a modest, but important, amount of cost and burden savings. Another broader and more complex set of regulatory burden reduction alternatives is currently being examined by EPA. That effort, described in more detail below, is expected to provide additional regulatory relief for TRI reporters.

#### *C. What Led to the Development of This Proposed Rule?*

Throughout the history of the TRI Program the Agency has implemented measures to reduce the TRI reporting burden on the regulated community. Through a range of compliance assistance activities, such as the Toxic Chemical Release Inventory Reporting Forms & Instructions (which is published and mailed every year), industry training workshops, chemical-specific and industry-specific guidance documents, and the EPCRA Call Center (a call hotline), the Agency has shown a commitment to enhancing the quality and consistency of reporting and assisting those facilities that must comply with EPCRA section 313.

EPA has also done extensive work to make reporting easier for the TRI reporting community through the development and use of technology such as EPA’s Toxics Release Inventory—Made Easy software, otherwise known as “TRI-ME” (<http://www.epa.gov/tri/report/trime/>). TRI-ME is an interactive, intelligent, user-friendly software tool that guides facilities through the TRI reporting process. By leading prospective reporters through a series of logically ordered questions, TRI-ME facilitates

the analysis needed to determine if a facility must complete a Form A or R report for a particular chemical. For those facilities required to report, the software provides guidance for each data element on Forms A and R. TRI-ME also has a one-stop guidance feature, the TRI Assistance Library, that allows keyword searches on the statutes, regulations, and many EPCRA section 313 guidance documents. It also offers a “load feature” that enables the user to upload almost all of their prior year data into the current year’s report. Finally, TRI-ME checks the data for common errors and then prepares the forms to be sent electronically over the Internet via EPA’s Central Data Exchange (CDX). TRI-ME generated reporting forms may also be submitted offline via magnetic media or on paper. In the spring of 2003, EPA distributed approximately 25,000 copies of TRI-ME in preparation for the 2002 reporting year deadline of July 1, 2003. Approximately 90% of the roughly 84,000 Form Rs filed in 2003 were prepared using the TRI-ME software.

In 1994, partially in response to petitions received from the U.S. Small Business Administration Office of Advocacy and the American Feed Industry Association, an EPA rulemaking established the Form A Certification Statement as an alternative to Form R. This burden-reducing measure was based on an alternate threshold for quantities manufactured, processed, or otherwise used by those facilities with relatively low annual reportable amounts of TRI chemicals. A facility may use the Form A for toxic chemicals manufactured, processed and otherwise used below the alternate threshold of one million pounds per year, if the facility has annual reportable amounts of these toxic chemicals not exceeding 500 pounds. The annual reportable amount is the total of the quantity released at the facility, the quantity treated at the facility, the quantity recovered at the facility as a result of recycle operations, the quantity combusted for the purpose of energy recovery at the facility, and the quantity transferred off-site for recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemicals in production-related waste (i.e., the sum of sections 8.1 through and including section 8.7 on the Form R).

In an effort to further explore burden reduction opportunities, EPA conducted a TRI Stakeholder Dialogue between November 2002 and February 2004. The dialogue process focused on identifying improvements to the TRI reporting process and exploring a number of

burden reduction options associated with TRI reporting. In total, EPA received approximately 770 documents as part of this stakeholder dialogue. Of that, approximately 730 were public comments and the remaining documents were either duplicates or correspondence transmitting public comments to the online docket system. The public comments expressed a range of views, with some supporting burden reduction and others opposing it. You may view and obtain copies of all documents submitted to EPA by accessing TRI docket TRI-2003-0001 online at <http://www.epa.gov/edocket> or by visiting the EPA docket reading room in Washington, DC.

As a result of the Stakeholder Dialogue, the Agency believes that it has identified a number of potential burden reducing options which will continue to support existing data uses and statutory and regulatory obligations. These changes fall into two broad categories: (1) Changes or modifications to the reporting forms and processes (including modifications to the forms and improvements in the TRI-ME software) which will streamline reporting without significantly affecting the information collected; and (2) more substantial changes that may affect which facilities are required to report and at what level of detail.

EPA has decided to address the two categories of changes through separate rulemakings, one of which is today's proposed action. This proposal focuses on options for streamlining reporting associated with TRI's Forms A and R. The proposed changes would eliminate some redundant or seldom-used data elements from these forms, and modify others that can be shortened, simplified or otherwise improved to reduce the time and costs required to complete and submit annual TRI reports. The proposal also contemplates the elimination of reporting for data elements available through other EPA data sources. EPA is confident these changes will enhance the efficiency and effectiveness of the TRI program by reducing reporting requirements, while continuing to provide communities and other data users with the same level of chemical release and other waste management information. EPA currently expects to complete this rulemaking in time for the 2006 reporting year.

This second rulemaking, to be proposed later in 2005, will examine the potential for more significant reporting modifications with greater potential impact on reducing reporting burden. The options which may be considered in that rulemaking include increasing reporting thresholds for small

businesses, or for classes of chemicals or facilities, expanding eligibility for Form A, introducing a "no significant change" option for chemical reports that have not changed significantly relative to a baseline reporting year, and expanding the use of range codes in section 8 of Form R. Because of the greater complexity and larger impacts potentially associated with this latter group of changes, additional analysis is needed to more thoroughly characterize its impact on TRI reporters and data users.

### III. What Reporting Requirement Changes Are Being Proposed?

#### A. Replacement of Certain Facility Data Reporting Requirements With Existing EPA Data From the EPA Facility Data Registry (Sections 4.6 and 4.8 Through 4.10 of Forms A and R)

1. *Overview.* Over the last several years, the entire federal community has been working to establish a common federal-wide enterprise architecture with one goal: to become a more citizen-centric government. A broad objective of this effort is to eliminate duplicate investment in information systems by identifying common business needs and satisfying these common needs through the implementation of common, reusable information systems, data, and technology. In the spirit of this effort, EPA has been working to identify like business needs to institute a common Environmental and Health Protection Target Architecture (EHPTA) and develop standard reusable information systems, data and technology.

Through the EHPTA, EPA determined that there is a recurring need across EPA's programs and external customers for high quality information about the location, name and environmental attributes of each specific facility subject to EPA regulatory or reporting requirements. EPA established a centrally managed Facility Registry System (FRS) as a component of the EHPTA. The FRS will become the authoritative source of all facility information used by EPA in its public access transactions. EPA proposes to remove the reporting requirement for facility data (latitude/longitude coordinates, permit and environmental program identification numbers other than the TRI facility identification number) from the TRI forms. Instead, the EPA database, FRS, would be used to populate the TRI data base with this information. EPA believes this change will improve the management of environmental information and increase the quality of the data. It will also reduce burden on EPA and its partners

through the elimination of redundant data collection and duplicate maintenance of facility level information across EPA systems.

2. *What is the FRS?* The FRS is a centrally managed database developed by EPA's Office of Environmental Information (OEI) that provides Internet access to a single source of comprehensive information about facilities that are subject to environmental regulations and/or have attributes that are of environmental interest to EPA.

The FRS database currently contains over 1.5 million unique facility records, and new facilities are continuously being added to the system, either through information supplied by EPA programs or through our State partners on the Exchange Network. At this time facility data are exchanged with over three dozen States through the National Environmental Information Exchange Network. FRS also receives correction and verification information from the reporting community through Web-based access, and through EPA database systems maintained by over a dozen EPA media programs. These EPA databases include, but are not limited to:

- Toxics Release Inventory (TRI)—years 1988–2003,
- Resource Conservation and Recovery Act (RCRA) Information System,
- Risk Management Plans (RMPs),
- Permit Compliance System (PCS) majors and minors,
- Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS), and
- Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS).

The FRS responds to the increasing demand for access to high quality information and the public need for one source of comprehensive environmental information about a given place. Agency databases, such as Envirofacts, the Window to My Environment EnviroMapper and Environmental Compliance History Online (ECHO) rely on the FRS for comprehensive and up-to-date facility information through web services.

3. *Removal of Latitude/Longitude Reporting Requirement (Section 4.6 of Forms A and R).* Geospatial data in the form of address information, latitude and longitude values, geospatial metadata and other coordinate information provide EPA with the capacity to spatially locate, identify and assess aspects of the environment critical to program operations and regulatory oversight. Locational data are

more important than ever and directly support Agency program initiatives, environmental reports and many public access tools such as Envirofacts and ECHO. To promote and increase the quality of the geospatial information, the Agency promotes the approach of “collect once—use many.” As a result, the EPA is proposing to populate the TRI database with latitude and longitude information from the FRS as an alternative to continuing to request the information from the reporter.

Under this proposal, locational information from FRS would be made readily available for all TRI reports and applications such as the publicly accessible TRI Explorer and all Form A or R retrievals from Envirofacts.

There are several reasons for this proposal. First, the latitude/longitude coordinates and program identification numbers are reported through other EPA program systems; therefore, the data provided to TRI are generally redundant. Second, the accuracy of any latitude/longitude data are highly dependent on the method used to collect the coordinates, and understanding the accuracy limitations are important to data users in determining whether or not an information source can be used for a particular type of analysis or application. Since there are no fields for reporting the method used to determine accuracy on the current TRI forms, the accuracy of the latitude/longitude data collected through TRI is not known. Consequently, even in those cases where data in the TRI data base may be of higher quality than those in FRS, it is impossible to verify this fact.

FRS, on the other hand, maintains locational data in its Locational Reference Tables (LRT) in the database. These tables serve as a repository for locational information collected from the program system databases and Regional Data Stewards databases, as well as from locational data values supplied by States. The information in these locational tables include geographic attributes (e.g., state, county, ZIP, etc.), coordinate data (latitude and longitude values), and the method, accuracy and description (MAD) qualifiers (Source Map Scale Number, Horizontal Accuracy Measure, Horizontal Collection Method Text, Vertical Measure, Reference Point, Horizontal Reference Datum Name, and Geometric Type Name) for the latitude and longitude values collected or derived when possible. This is a much more comprehensive documentation of the latitude and longitude data for a facility location than what is currently collected from the TRI reporters.

Because FRS collects data from a number of Agency systems and these systems may reference different points within a given facility due to different statutory obligations that govern EPA programs (e.g., a stack versus a water treatment discharge point), there sometimes are more than one locational set of latitude and longitude values for a given facility. In these cases, EPA uses an algorithm that picks the best documented locational value for a facility, site or place. This selected locational value is termed the best point location for a facility and the algorithm is called the Best Pick Process. It is described more thoroughly on the Agency Web site: ([http://www.epa.gov/enviro/html/locational/lrt/pick\\_best.html](http://www.epa.gov/enviro/html/locational/lrt/pick_best.html)). EPA is continually examining the collection, database modeling and Best Pick Process to enhance the accuracy of the location values selected for use by geospatial applications used by the Agency and offered to the public and other stakeholders. Locational information will be readily available for all TRI reports and applications including: TRI Explorer or Form A or R retrievals from Envirofacts.

Another advantage of utilizing information in the FRS is that TRI reporters can take advantage of EPA's Public Internet site that enables the public to submit corrections to EPA's data on regulated facilities through one central access point. The submission process is known as the Integrated Error Correction Process (IECP) because it unifies the process by which EPA regulatory programs manage corrections to the data in their systems. IECP is part of an ongoing EPA effort to improve the quality of EPA's publicly available data. Through the IECP, the public can directly notify EPA of a data error they've identified in EPA's publicly available data. They may notify EPA through a variety of venues that include: Selecting the “Contact Us” hotlink from the EPA Home Page and accessing the link “report data errors”; by calling the IECP desk; sending a fax; or by e-mailing a detailed description of the error. Once the error report is generated, it is routed within EPA to the appropriate program official, who may be either within the federal EPA or a state environmental agency that has been authorized to manage an EPA program. The official has the authority to make appropriate corrections to the program database. The error routing process usually takes place in two to four business days, and depending on the error, corrections are usually reflected in a few weeks. Last year the

IECP handled over 8,000 error notifications and continues to operate as a simple, effective way of resolving errors in EPA's databases.

In addition to the IECP's continuous process of improving locational information in the FRS, EPA has recently launched a long term strategic effort to enhance the quality of the locational data. The Locational Data Improvement Strategy consists of four major goals: (1) Improve the quality of data in FRS, (2) improve the locational data that is being sent to EPA, (3) improve the technical infrastructure for managing locational data, and (4) develop and maintain locational data policies, plans and procedures. To meet these goals, EPA is launching a series of discrete projects that both leverage existing EPA capabilities and adopt new approaches. Work under each of the four goals began in 2004 and it is anticipated that many of the significant technical, policy, and data enhancements to FRS will begin to be phased in during the latter part of calendar year 2005. It is believed that these changes will further enhance the quality and completeness of FRS information relative to that which could be separately collected under the TRI forms.

Three potential concerns were raised in the public comments with respect to the use of FRS for locational references under the TRI program. The first is how to address existing facilities which do not have locational information other than that obtained through TRI. In this case EPA proposes to continue to use existing historical TRI data until such time as data are available in FRS.

The second potential issue is how to address new facilities. In these cases, one of the first steps for the new reporter is to call the TRI Call Center to obtain a TRI ID number to report on their Form A or R. At this time, the Call Center would obtain the facility address and send this information to the FRS management group at EPA. This group would use the FRS locational reference tools to create latitude and longitude data for the facility. The previously discussed IECP would provide a mechanism for validation of this value.

The third potential concern relates to the fact that locational information on a facility is currently only accessible from FRS through EPA's publically accessible Envirofacts Web site: <http://www.epa.gov/enviro/frs>. This poses a concern for many data users who rely on TRI Explorer for reviewing release information on sources. This problem will eventually be addressed by a TRI Explorer re-engineering effort presently underway. If the re-engineering is not

completed prior to the removal of latitude and longitude information from the TRI forms, EPA will implement an interim provision to ensure uninterrupted access to locational information for TRI facilities.

Under the proposed approach, facility locational data would still be made available for all reporters and data users, but instead of requiring facilities to determine their geographic coordinates, EPA would extract the data from information that is already collected, stored and maintained in its centrally managed database, the FRS. Comment is specifically sought on barriers or concerns with the removal of latitude and longitude fields from the Forms A and R, and the Agency's plan for implementing this change.

#### 4. Removal of Reporting Requirements for EPA Permit and Program

*Identification Numbers (Sections 4.8, 4.9 and 4.10 of Forms A and R).* The EPA is proposing to automatically populate the TRI database with EPA program identification numbers from FRS as an alternative to requesting the information from TRI reporters. The identification numbers include the numbers assigned to facilities under the Resource Conservation and Recovery Act (RCRA), the permit identification numbers under the National Pollutant Discharge Elimination System (NPDES), and permit numbers issued by EPA or a state to facilities with underground injection wells. The 1988 rule in which the original Form R was published stated that "EPA requires the listing of specific permit numbers in the facility identification part of the form. EPA believes that these permit numbers provide a useful link between the release information and any relevant permit data." 53 FR 4513 (Feb. 16, 1988).

Instead, the FRS would be used to supply the information removed from the TRI Form R to stakeholders who need this information. FRS provides the integration of all environmental program activities at a given place by linking all program identification numbers to the FRS record. The FRS contains accurate and authoritative facility identification records which are subjected to rigorous verification and data management quality assurance procedures. FRS records are continuously reviewed and enhanced by a Regional Data Steward network and active State partners. The facility records are based on information from EPA's national program systems and State master facility records and enhanced by other Web information sources. For all of these reasons, leveraging FRS as the authoritative

source for facility information presents a better alternative for collecting program identification numbers and providing them to the public.

As with latitude and longitude information, one potential concern is that there be no lapse in information availability with respect to facility identification under various programs. This concern is an especially important one since major data uses include cross comparisons with other program reports. The Agency is fully aware and sensitive to this concern and will work to ensure that there is no lapse in public availability of facility identification records. Cross comparisons between TRI and FRS records will be made to validate coverage before these sections are removed from Forms A and R. Comment is specifically requested on the elimination of individual EPA program identification number reporting requirements from the TRI forms, as well as the timing of implementation.

#### B. Removal of Reporting Requirement for Determining the Percentage of the Total Quantity of Toxic Chemicals Contributed by Stormwater (Part II, Section 5.3 Column C)

EPA is proposing to remove part II, section 5.3 column C from reporting Form R. This data element applies to discharges to receiving streams and water bodies. It requires facilities that have monitoring data regarding the amount of EPCRA section 313 chemicals that are released in stormwater runoff to indicate the percentage of the total quantity of the EPCRA section 313 chemicals that are discharged in stormwater. The rest of section 5.3 is unaffected by this proposal.

When Form R was first created, the Agency had issued few NPDES permits that regulated stormwater and those were generally only for very significant contributors of contaminated stormwater. Significant industrial stormwater dischargers typically had one NPDES permit that regulated both storm and process waters. The Form R provided valuable information on the stormwater system. Now, approximately 100,000 industrial facilities have stormwater permits, with half or so required to monitor and report pollutant-specific data. As such, EPA and authorized states (*i.e.*, authorized to issue NPDES permits) now gather stormwater specific monitoring data that was not being collected in 1987.

EPA's stormwater permitting requirements will not be affected by removing section 5.3 column C from Form R. While the Agency's industrial stormwater permits originally included special considerations for any chemicals

that were "water priority chemicals" and were also reported on Form R, the "water priority chemicals" language is no longer used. There is no longer any connection between the EPA stormwater permit program and the TRI reporting requirements. Rather, the Agency's industrial stormwater permits require that all pollutants be considered.

EPA believes any current uses of these data may be supported by data derivable from other sources. Therefore, EPA is proposing to no longer collect the information. We are seeking comment on the potential deletion of this element and specifically on whether anyone uses the information in section 5.3 column C.

#### C. Modifications to the Reporting Requirement for On-Site Waste Treatment Methods and Efficiency (Part II, Section 7)

The Agency is proposing to make five modifications to part II, section 7 of the Form R. As part of the TRI Stakeholder Dialogue, EPA received several comments regarding potential changes to this section. Comments ranged from clarifying the reporting requirements of part II, section 7 to eliminating the section all together. One commenter stated that EPA should eliminate all data elements in section 7A that, according to the commenter, are not required by statute. This commenter believes that the data collected in section 7A is not being used in any meaningful way by the TRI community and therefore this section imposes an unnecessary burden on reporting facilities. Another commenter suggested that EPA modify the Form R, including part II, section 7, to reflect the operation of the electric utility industry as this would reduce burden for that industry. Specifically, it proposed that the Agency simplify or eliminate section 7A and eliminate sections 7B and 7C.

Section 313(g)(1)(C)(iii) of EPCRA states that facilities must report "for each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved." 42 U.S.C. 11023(g)(1)(C)(iii). Data elements collecting waste treatment information and related details, such as whether the efficiency estimate was based on operating data, were implemented through a 1988 rule. 53 FR 4516-18 (Feb. 16, 1988). Section 6607(b)(2) of the PPA states facilities must report "the amount of the chemical \* \* \* which is recycled \* \* \* and the process of recycling used." 42 U.S.C. 13106(b)(2). Facilities fulfill these obligations, in part, by reporting qualitative information regarding their on-site waste treatment and recycling of EPCRA



section 313 chemicals in part II, section 7 of the Form R.

The Agency has not been able to verify that all of the information in section 7 is routinely used and, therefore, is proposing to modify or eliminate some parts of section 7. The Agency believes that simplifying this section will result in reduced reporting burden for those facilities required to complete this portion of the form.

1. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column B—Waste Treatment Method(s) Sequence)*. The Agency proposes to simplify column B of section 7A—*Waste Treatment Method(s) Sequence*, by reducing the number of codes available for reporting. Currently there are 64 codes that can be reported in column B to describe the various waste treatment methods applied to EPCRA section 313 chemicals treated on-site. The Agency is proposing to replace these codes with the newly-revised list of 18 hazardous waste treatment codes (H040–129) currently used in EPA's biennial Hazardous Waste Report, also known as the EPA Resource Conservation Recovery Act (RCRA) Biennial Report. See page 63 of the 2003 Hazardous Waste Report Instructions and Forms (booklet) [EPA Form 8700–13 A/B; 11/2000] available at <http://www.epa.gov/epaoswer/hazwaste/data/br03/03report.pdf>.

EPA believes that decreasing the number of codes in section 7A, column B will reduce reporting burden and improve EPA's data collection and dissemination. First, facilities will have fewer codes to consider when reporting in this section. Second, under this proposed option, the same codes will be used for both the RCRA hazardous waste and TRI reporting programs, providing consistency between two EPA reporting systems regarding waste treatment methods data. Eighty percent of TRI reporters report a RCRA identification number on Form R, part I, section 4.8. The majority of facilities with an assigned RCRA identification number also file a RCRA Biennial Report. These facilities should already be familiar with the RCRA Biennial Report codes.

The RCRA hazardous waste treatment codes represent a minimal set of meaningful codes at a sufficient level of technological differentiation to support EPA's current and future hazardous waste rulemakings, regulatory monitoring and enforcement activities, thus fulfilling one of the purposes of data collection under EPCRA, "to aid in the development of appropriate regulations, guidelines, and standards." 42 U.S.C. 11023(h). During a previous

burden reduction effort, EPA reduced the original set of RCRA Biennial Report waste treatment codes used over prior data years (before 2001), from 65 codes to the current 18 codes.

The current waste treatment codes are listed in section 7A, column B of Form R:

Air Emissions Treatment (applicable to gaseous waste streams only)

A01 Flare  
A02 Condenser  
A03 Scrubber  
A04 Absorber  
A05 Electrostatic Precipitator  
A06 Mechanical Separation  
A07 Other Air Emission Treatment

Biological Treatment:

B11 Aerobic  
B21 Anaerobic  
B31 Facultative  
B99 Other Biological Treatment

Chemical Treatment:

C01 Chemical Precipitation—Lime or Sodium Hydroxide  
C02 Chemical Precipitation—Sulfide  
C09 Chemical Precipitation—Other  
C11 Neutralization  
C21 Chromium Reduction  
C31 Complexed Metals Treatment (other than pH adjustment)  
C41 Cyanide Oxidation—Alkaline Chlorination  
C42 Cyanide Oxidation—Electrochemical  
C43 Cyanide Oxidation—Other  
C44 General Oxidation (including Disinfection)—Chlorination  
C45 General Oxidation (including Disinfection)—Ozonation  
C46 General Oxidation (including Disinfection)—Other  
C99 Other Chemical Treatment

Incineration/Thermal Treatment

F01 Liquid Injection  
F11 Rotary Kiln with Liquid Injection Unit  
F19 Other Rotary Kiln  
F31 Two Stage  
F41 Fixed Hearth  
F42 Multiple Hearth  
F51 Fluidized Bed  
F61 Infra-Red  
F71 Fume/Vapor  
F81 Pyrolytic Destructor  
F82 Wet Air Oxidation  
F83 Thermal Drying/Dewatering  
F99 Other Incineration/Thermal Treatment

Physical Treatment

P01 Equalization  
P09 Other Blending  
P11 Settling/Clarification  
P12 Filtration

P13 Sludge Dewatering (non-thermal)  
P14 Air Flotation  
P15 Oil Skimming  
P16 Emulsion Breaking—Thermal  
P17 Emulsion Breaking—Chemical  
P18 Emulsion Breaking—Other  
P19 Other Liquid Phase Separation  
P21 Adsorption—Carbon  
P22 Adsorption—Ion Exchange (other than for recovery/reuse)  
P23 Adsorption—Resin  
P29 Adsorption—Other  
P31 Reverse Osmosis (other than for recovery/reuse)  
P41 Stripping—Air  
P42 Stripping—Steam  
P49 Stripping—Other  
P51 Acid Leaching (other than for recovery/reuse)  
P61 Solvent Extraction (other than recovery/reuse)  
P99 Other Physical Treatment

Solidification/Stabilization

G01 Cement Processes (including silicates)  
G09 Other Pozzolonic Processes (including silicates)  
G11 Asphaltic Techniques  
G99 Other Solidification Processes

The Agency proposes to replace these codes with the following RCRA H treatment codes:

H040 Incineration—thermal destruction other than use as a fuel  
H071 Chemical reduction with or without precipitation  
H073 Cyanide destruction with or without precipitation  
H075 Chemical oxidation  
H076 Wet air oxidation  
H077 Other chemical precipitation with or without pre-treatment  
H081 Biological treatment with or without precipitation  
H082 Adsorption as the major component of treatment  
H101 Sludge treatment and/or dewatering  
H103 Absorption  
H111 Stabilization or chemical fixation prior to disposal at another site  
H112 Macro-encapsulation prior to disposal at another site  
H121 Neutralization only  
H122 Evaporation  
H123 Settling or clarification  
H124 Phase separation  
H129 Other treatment

EPA requests comments on whether reducing the number of codes used in section 7A, column B will affect the quality of TRI data, especially with respect to the use of those data.

2. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column C—Range of Influent*



*Concentration*). To help simplify reporting in section 7A of the Form R, EPA is proposing to eliminate section 7A, column C—*Range of Influent Concentration*. Currently, completion of column C requires facilities to enter a numerical code indicating the concentration range of the EPCRA section 313 chemical as it enters the treatment step. The following range codes are currently used for reporting in column C:

- 1 = Greater than 10,000 parts per million (1%)
- 2 = 100 parts per million (0.01%) to 10,000 parts per million (1%)
- 3 = 1 part per million (0.0001%) to 100 parts per million (0.01%)
- 4 = 1 part per billion to 1 part per million
- 5 = Less than 1 part per billion

Column C was implemented in the 1988 rule in which EPA initially published the Form R. 53 FR 4518. During the development of the 1988 rule, EPA believed that concentration information would assist users in determining whether effective treatment methods may be available for wastes containing different amounts of a given chemical because the effectiveness of most treatment methods is concentration-dependent. *See Proposed Rule, 52 FR 21152, 21163 (June 4, 1987)*. Further, an indication of influent concentration would aid in the evaluation of treatment methods across industries and therefore put the data into better perspective. 53 FR 4518. Contrary to the intended use of information from section 7, column C, EPA does not believe that this information is widely used by States and the public. Consequently, the Agency is proposing to stop collection of the data currently reported in this column.

The second option that EPA is considering in this proposal is to make reporting under section 7A, column C optional. Under this option, facilities would have a choice as to whether to report the influent concentration range of the EPCRA section 313 chemical.

EPA requests comments on how the proposed removal of column C of section 7A could affect the use of TRI data in general, and in particular, how it could affect the use of information reported in column D of section 7A. EPA also requests comments on whether many facilities could be expected to continue to report data in column C if such reporting was deemed to be optional.

3. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column D—Waste Treatment Efficiency*

*Estimate*). In this section, facilities enter the number indicating the percentage of the EPCRA section 313 chemical removed from the waste stream. The waste treatment efficiency (expressed as a percentage) represents the percentage of the TRI chemical destroyed or removed (based on amount or mass).

Under EPCRA section 313(g)(1)(C)(iii), facilities are required to submit an estimate of the treatment efficiency typically achieved by the waste treatment or disposal methods employed for each waste stream. Currently facilities must enter an exact percentage in this column of the form. EPA is proposing to allow facilities to report their treatment efficiency as a range instead of an exact percentage. The Agency is thus proposing to use the following ranges in column D:

- E1 = greater than 99.9%
- E2 = greater than 95% to 99.9%
- E3 = greater than 90% to 95%
- E4 = greater than 75% to 90%
- E5 = greater than 30% to 75%
- E6 = 0% to 30%

The proposed set of range codes were developed by analyzing a subset of treatment efficiencies reported in RY 2002. Most of the efficiencies were between 90% and 100%. The range codes reflect this reporting trend by grouping three of the codes between 90% and 100% while the other three codes represent larger ranges between 0% and 90%.

The Agency is seeking comment on whether replacing an exact percentage estimate with these proposed ranges will make it easier for facilities to complete section 7A, column D. We are also seeking comment on how the use of range codes for treatment efficiency will affect the utility of the data. EPA also requests comment on the specific set of range codes proposed.

4. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column E—Based on Operating Data)*. This column of section 7A requires facilities to indicate “Yes” or “No” as to whether the waste treatment efficiency reported in section 7A, column D is based on actual operating data such as the case where a facility monitors the influent and effluent wastes from this treatment step. When this data element was first implemented, EPA believed that this information would be valuable to users because it would indicate the relative quality and reliability of the efficiency estimate figure (*see 52 FR 21152, 21163*). If the change mentioned in section C(3) above is made, however, treatment efficacy data will only be represented by a range. Under such conditions, the significance of the

method of range determination could be less meaningful. Furthermore, EPA is unaware of any significant use of this data under the present form where specific treatment efficiency is specified. EPA thus proposes to remove column E of section 7A from Form R. We request comments on how removal of this data field could affect the usefulness of TRI data.

5. *Part II, Section 7C—On-Site Recycling Processes*. In this section, facilities that conduct on-site recycling use the sixteen codes below to report the particular recycling methods applied to the EPCRA section 313 chemical being recycled. For each Form R filed, facilities may report up to ten R codes, as appropriate. Following are the currently-used codes:

- R11 Solvents/Organics Recovery—Batch Still Distillation
- R12 Solvents/Organics Recovery—Thin-Film Evaporation
- R13 Solvents/Organics Recovery—Fractionation
- R14 Solvents/Organics Recovery—Solvent Extraction
- R19 Solvents/Organics Recovery—Other
- R21 Metals Recovery—Electrolytic
- R22 Metals Recovery—Ion Exchange
- R23 Metals Recovery—Acid Leaching
- R24 Metals Recovery—Reverse Osmosis
- R26 Metals Recovery—Solvent Extraction
- R27 Metals Recovery—High Temperature
- R28 Metals Recovery—Retorting
- R29 Metals Recovery—Secondary Smelting
- R30 Metals Recovery—Other
- R40 Acid Regeneration
- R99 Other Reuse or Recovery

EPA is proposing to eliminate the current recycling codes and replace them with the following three reclamation and recovery management codes used in EPA’s biennial Hazardous Waste Report, also known as the EPA Resource Conservation Recovery Act (RCRA) Biennial Report:

- H010 Metal recovery (by retorting, smelting, or chemical or physical extraction)
- H020 Solvent recovery (including distillation, evaporation, fractionation or extraction)
- H039 Other recovery or reclamation for reuse (including acid regeneration or other chemical reaction process)

Similar to the proposed modification to column B of part II, section 7A, the reporting burden associated with completing section 7C would be reduced because facilities would have fewer codes to consider. EPA’s data

collection and dissemination would also be improved by adopting the same codes for both the RCRA hazardous waste and TRI reporting programs. Eighty percent of TRI reporters report a RCRA identification number on Form R, part I, section 4.8. The majority of facilities with an assigned RCRA identification number also file a RCRA Biennial Report. These facilities should already be familiar with the RCRA Biennial Report codes.

For further information about the RCRA reclamation and recovery management codes, see EPA's RCRA Biennial Report, which can be found at: <http://www.epa.gov/epaoswer/hazwaste/data/br03/03report.pdf>—PDF screen page 63 of the 80 page report.

EPA requests comment on how the simplification of codes regarding on-site recycling processes will affect the use of the data. Please provide, if available, specific examples of how detailed information on recycling processes is currently used.

#### *D. Removal of Reporting Data Field for Optional Submission of Additional Information (Part II, Section 8.11)*

Section 6607(d) of the Pollution Prevention Act (PPA) requires that reporters be provided the opportunity to include "additional information regarding source reduction, recycling, and other pollution control techniques" with their reporting form. 42 U.S.C. 13106(d). Currently, EPA requires that facilities answer a "yes/no" question to indicate whether a facility has included such information. Facilities with such information then attach a physical copy describing their activity. Because such information is long and in varied forms, it has not been coded into the TRI database. This lack of coding creates a large potential burden for users of information seeking to identify innovative programs or processes. EPA is proposing to make a minor change to this question to improve public access to such information.

Under this proposal, an optional text box feature would be added to EPA's TRI-E reporting software to enable reporting facilities to add a brief description of their applicable source reduction, recycling, and other pollution control techniques and activities. In addition, reporters would be provided instructions in EPA's "Toxic Chemical Release Inventory Reporting Forms" on how to denote on their Form R submission that they are providing a brief summary and/or more detailed information on one of these activities. Form R would be modified to include a checkbox allowing facilities that provide additional information to

check "yes" if they use the text box feature or send EPA additional information in hardcopy. Facilities that do not wish to provide additional information would no longer need to check "no" in section 8.11.

With this revision, EPA could make this additional information available on the Agency's public access Web site for the first time, through one of EPA's system applications, such as Envirofacts. This proposed change would provide TRI data users with improved access to the additional information that facilities submit about their source reduction, recycling, and other pollution control techniques.

EPA requests comments on whether reporters would utilize a text box for section 8.11, and whether TRI data users would find increased access to this additional data useful.

#### **IV. Technical Modifications to 40 CFR 372.85**

In addition to the proposals for streamlining the TRI Reporting Forms explained above, EPA is proposing two technical corrections to 40 CFR 372.85.

Prior to 1991, EPA published the current version of the Form R and Reporting Instructions in its regulations at 40 CFR 372.85(a). On June 26, 1991, 56 FR 29183, EPA published a final rule that replaced the full version of the form and instructions in the regulation with a Notice of Availability of the most current version of the Form R and Reporting Instructions and an address from which to obtain a copy.

The address for requesting the current version of Form R is outdated. Moreover, the likelihood exists that the address may change from time to time in the future because the entity managing Form R distribution may change. Therefore, EPA is amending 40 CFR 372.85(a) by giving a reference to the TRI Web site to obtain the Form R instead of publishing in the regulations an address from which to request copies of TRI forms. EPA is also providing a phone number from which to request TRI publications.

The 1991 rule also added a list describing the Form R data elements at 40 CFR 372.85(b). This list includes Paragraph 18 describing a pollution prevention data element, which was optional and set to expire after the 1990 reporting year. After the 1991 rule was finalized, EPA incorporated mandatory pollution prevention reporting elements pursuant to the Pollution Prevention Act of 1990. 57 FR 22330. EPA believes the presence of the outdated Paragraph 18 element in the regulations is unnecessary since it has expired. Further, the Agency is concerned that it

may lead to confusion about whether pollution prevention data are required elements of the Form R. Therefore, EPA proposes to delete 40 CFR 372.85(b)(18) for the purposes of order and clarity. This action will not affect the reporting obligations found in section 6607 of the PPA; facilities must continue to report pollution prevention information as collected in part II, section 8 of the Form R.

#### **V. What Are the Statutory and Executive Order Reviews Associated With This Action?**

##### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866, 58 FR 51735, the Agency must determine whether this regulatory action is "significant" and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of the proposed regulatory action. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that today's proposed rule is a significant regulatory action. The Agency therefore submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the docket to today's proposal.

To estimate the cost savings, incremental costs, economic impacts and benefits from this rule to affected regulated entities, EPA completed an economic analysis for this rule. Copies of this analysis (entitled "Economic Assessment of the Burden Reduction-Modifications to Form R-Proposed Rule") have been placed in the TRI docket for public review. The Agency solicits comment on the methodology and results from the analysis as well as

any data that the public feels would be useful in a revised analysis.

1. Methodology

To estimate the cost savings, incremental costs, economic impacts and benefits of this rule, the Agency estimated both the cost and burden of completing the TRI reporting forms, as well as the number of affected entities. The Agency has used the 2002 reporting year for TRI data as a basis for these

estimates. First, the Agency identified the number of PBT and non-PBT respondents completing Form R and non-PBT respondents for Form A (PBT respondents are currently ineligible to use Form A). Then the Agency determined the unit burden savings and cost savings per form using an engineering analysis. Burden savings for the various forms were calculated separately because not all proposed modifications appear on every form.

The total burden and cost savings associated with the proposed modifications to Forms A and R are the product of the unit burden and cost savings per form times the number of forms (Forms A and R) submitted.

2. Cost & Burden Savings Results

Table 1 and Table 2 summarize the number of 2002 first and subsequent year Forms A and R submissions.

TABLE 1.—NATIONAL BURDEN AND COST SAVINGS FOR FIRST YEAR REPORTERS

Number of 2002 forms	Form type	Burden savings per Form R (hours/% of total)	Total burden savings (hours)	Cost saving per Form R	Total cost savings
458	Form R PBT	2.23/3.2	1,023	\$97.05	\$44,449
880	Form R non-PBT	0.96/1.4	842	40.89	35,979
324	Form A non-PBT	0.52/1.1	168	21.59	6,994
Total			2,033		\$87,423

TABLE 2.—PRELIMINARY NATIONAL BURDEN AND COST SAVINGS FOR SUBSEQUENT YEAR REPORTERS

Number of 2002 forms	Form type	Burden savings per Form R (hours/% of total)	Total burden savings (hours)	Cost saving per Form R	Total cost savings
15,085	Form R PBT	1.11/2.4	16,681	\$46.99	\$708,841
65,006	Form R non-PBT	0.39/1.5	25,167	15.72	1,021,833
11,594	Form A non-PBT	0.11/0.6	1,292	3.58	41,543
Total			43,140		\$1,772,217

EPA estimates that the total annual burden savings for this proposal are 45,000 hours. EPA estimates that the total annual cost savings for this proposal are \$1.85 million. Average annual cost savings for facilities submitting Form Rs or Form As are between \$22 and \$97 per form or between \$66 and \$291 per facility.

3. Impacts on Data

EPA evaluated the potential impacts on data from removing or simplifying these specific data fields and determined that the risk of significant data loss is minimal. In the case of some elements (e.g., latitude and longitude information), reporting is being discontinued because information already exists or can be developed from other EPA data systems. In other cases (e.g., changes in waste management or recycling reporting codes), streamlining is being proposed to bring reporting categories in line with existing practices of other Agency program offices which should ultimately increase the utility of the information. Range reporting options being considered include

intervals selected to maintain relatively equal population subcategories which should maintain the utility of the data while minimizing the potential uncertainty associated with individual values. The Agency has also conducted outreach to potentially affected stakeholders to solicit any specific uses of the fields being proposed for removal or simplification. Based on that outreach, the Agency believes the potential for significant data loss to the public to be minimal. EPA solicits comment on whether and how the specific data fields in today's proposal are used and whether or not alternate sources of the same data are available.

B. Paperwork Reduction Act

We have prepared a document estimating the recordkeeping and reporting burden savings associated with this rule. We calculate the reporting and recordkeeping burden reduction for this rule as 45,000 hours and the estimated cost savings as \$1.85 million. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain,

disclose, or provide information to or for a Federal agency. That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has fewer than either 1000 or 100 employees per firm depending upon the firm's primary SIC code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

The economic impact analysis conducted for today's proposal indicates that these revisions would generally result in savings to affected entities compared to baseline requirements. The rule is not expected to result in a net cost to any affected entity. Thus, adverse impacts are not anticipated.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with "federal mandates" that may result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must

have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The Agency's analysis of compliance with the Unfunded Mandates Reform Act (UMRA) of 1995 found that today's proposed rule imposes no enforceable duty on any state, local or tribal government or the private sector. This proposed rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments or the private sector. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The rule merely streamlines reporting requirements for an existing program. Therefore we have determined that today's proposal is not subject to the requirements of sections 202 and 205 of UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132, entitled "Federalism" 64 FR 43255 (August 10, 1999), requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the 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." This proposed rule does not have federalism implications. It will not have substantial direct effects on the 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, as specified in Executive Order 13132.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" 65 FR 67249 (November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by

tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, 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. This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175.

#### *G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks*

"Protection of Children From Environmental Health Risks and Safety Risks," 62 FR 19885 (April 23, 1997), applies to any rule that EPA determines (1) "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potential effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866.

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

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be

inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### J. Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations", EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

EPA has considered the impacts of this proposed rulemaking on low-income populations and minority populations and concluded that it will not cause any adverse effects to these populations. As stated above, the Agency has determined that the risk of significant data loss is very low. The data elements proposed for removal or streamlining either have a low incidence of reporting, have other data source readily available or do not appear to be used to any significant degree by the public.

#### List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: December 29, 2004.

**Michael O. Leavitt,**  
Administrator.

For the reasons discussed in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 372 as follows:

#### PART 372—[AMENDED]

1. The authority citation for Part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11028.

#### Subpart E—[Amended]

2. Section 372.85 is amended as follows:

- i. Revise paragraph (a).
- ii. Remove paragraph (b)(6).
- iii. Redesignate paragraphs (b)(7) through (b)(18) as paragraphs (b)(6) through (b)(17).
- iv. Revise the newly-designated paragraph (b)(6).
- v. Revise the newly-designated paragraph (b)(14)(i)(C).
- vi. Remove the newly-designated paragraph (b)(16)(iii).
- vii. Redesignate the newly-designated paragraphs (b)(16)(iv) and (v) as paragraphs (b)(16)(iii) and (iv).
- viii. Revise the newly-designated paragraph (b)(16)(iii).
- ix. Remove the newly-designated paragraph (b)(17).

#### § 372.85 Toxic chemical release reporting form and instructions.

(a) *Availability of reporting form and instructions.* The most current version of Form R may be found on the following EPA Program Web site, <http://www.epa.gov/tri>. Any subsequent changes to the Form R will be posted on this Web site. Submitters may also contact the TRI Program at (202) 564-9554 to obtain this information.

(b) \* \* \*

(6) Dun and Bradstreet identification number.

\* \* \* \* \*

(14) \* \* \*

(i) \* \* \*

(C) Discharges to receiving streams or water bodies.

\* \* \* \* \*

(16) \* \* \*

(iii) An estimate of the efficiency of the treatment, which shall be indicated by a range.

3. Section 372.95 is amended as follows:

i. Remove paragraphs (b)(11), (b)(13), (b)(14) and (b)(15).

ii. Redesignate paragraph (b)(12) as paragraph (b)(11) and redesignate paragraphs (b)(16) through (b)(17) as paragraphs (b)(12) through (b)(13).

[FR Doc. 05-430 Filed 1-7-05; 8:45 am]

**BILLING CODE 6560-50-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 041221358-4358-01; I.D. 121504A]

RIN 0648-AR56

#### Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule, 2005 initial specifications; request for comments.

**SUMMARY:** NMFS proposes initial specifications for the 2005 fishing year for Atlantic mackerel, squid, and butterfish (MSB). Regulations governing these fisheries require NMFS to publish proposed specifications for the upcoming fishing year and to provide an opportunity for public comment. The intent of this action is to fulfill this requirement and to promote the development and conservation of the MSB resources.

**DATES:** Public comments must be received no later than 5 p.m., Eastern Standard Time, on February 9, 2005.

**ADDRESSES:** Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.noaa.gov>.

Comments on the proposed specifications should be sent to: Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope, "Comments-2005 MSB Specifications." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments on the specifications may be submitted by e-mail as well. The mailbox address for providing e-mail comments is [SMB2005Specs@noaa.gov](mailto:SMB2005Specs@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: "Comments-2005 MSB Specifications." Comments may also be submitted electronically through the