

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 372**

[OPPTS-400087; FRL-4776-8]

RIN 2070-AC70

**Alternate Threshold for Low-Level
Releases and Transfers; Toxic
Chemical Release Reporting;
Community Right-to-Know**AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to establish an alternate reporting threshold for those facilities with low-level releases and transfers that would otherwise meet reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). A facility that meets the current section 313 reporting thresholds, but estimates that the sum of its annual releases on-site and transfers off-site (for the purposes of treatment and/or disposal only) of a listed chemical is below 100 pounds, may be eligible to take advantage of this proposed alternate reporting threshold, for that chemical in that year, provided that certain conditions are adhered to. EPA is proposing to establish this alternate reporting threshold in response to petitions received from the Small Business Administration and the American Feed Industry Association.

DATES: Written comments on this proposed rule must be received by August 29, 1994.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Document Receipt Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency Rm. NE-B607 401 M St., SW., Washington, DC 20460. Comments should include the document control number for this proposal, OPPTS-400087

FOR FURTHER INFORMATION CONTACT: Tim Crawford, Project Manager, (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. 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, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:**I. Introduction****A. Statutory Authority**

This proposed rule is issued under sections 313(f)(2) and 328 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023(f)(2) and 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in excess of the applicable threshold quantities to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities began reporting pollution prevention and recycling data for listed chemicals, pursuant to section 6607 of the Pollution Prevention Act, 42 U.S.C. 13106. This information is submitted on EPA form 9350-1 (Form R) and compiled in an annual Toxic Release Inventory (TRI). Each covered facility must file a separate Form R for each listed chemical manufactured, processed, or otherwise used in excess of the reporting thresholds established in section 313(f)(1). EPA has authority to revise these threshold amounts pursuant to section 313(f)(2); however, such revised threshold amounts shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to section 313. A revised threshold may be based on classes of chemicals or categories of facilities. Section 328 provides EPA with general rulemaking authority to develop regulations necessary to carry out the purposes of the Act.

B. Background on Petitions

On August 8, 1991, the Small Business Administration (SBA) petitioned EPA to exempt from TRI reporting requirements facilities reporting low volumes of chemicals released and transferred. This petition states that:

Currently, EPA's implementation of SARA mandates a collection of both significant and insignificant data. It unreasonably includes many small facilities whose compliance with present section 313 regulations is overly burdensome. The TRI database is not meaningfully improved by countless entries of zero or de minimis release figures, as it now appears with current Congressionally-specified thresholds. Based on 1988 data, the Office of Advocacy estimated that EPA could generally exclude facilities with releases and transfers of less than 5,000 pounds annually for the vast majority of section 313 chemicals and still satisfy the right to know objectives and the statutory requirements. (Ref. 1).

EPA published this petition in the *Federal Register* (October 27 1992, 57

FR 48706) (SBA Notice), and received a substantial number of comments in response to this notice. Copies of these comments are available in the TSCA docket, OPPTS docket number 400072. The proposal being put forth in this document is EPA's response to the SBA petition.

EPA received a similar request in a petition from the American Feed Industry Association (AFIA) on February 14, 1992. AFIA requested an exemption of Standard Industrial Classification (SIC) code 2048 from TRI reporting. The general basis of this request is that SIC code 2048, "Prepared Feeds and Feed Ingredients for Animals and Fowls, Except Dogs and Cats," has such small releases of chemicals (primarily feed additives) that the industry as a whole does not contribute information that furthers the purposes of EPCRA and therefore the imposition of TRI reporting on the feed industry is unfair. The AFIA petition suggested, as an alternative to the requested SIC code deletion, EPA's adoption of the approach proposed in the SBA petition.

EPA published this petition in the *Federal Register* (April 13, 1993, 58 FR 19308), and received a substantial number of comments. These comments are available in the TSCA docket, OPPTS docket number 400077

At this time, EPA has decided to focus on a revision of current reporting requirements that would be applied equally to all industries subject to section 313, as opposed to a revision restricted to target industrial sectors or SIC codes. EPA believes the proposal put forth in this document would effectively address the major points of the AFIA petition. Based on the information provided in the AFIA petition and results from EPA's analysis, approximately 50 percent of all of the facilities reporting under SIC code 2048 will qualify for the threshold modification being proposed (Ref. 4). EPA therefore considers the proposal put forth in this document as a response to the AFIA petition.

**II. Explanation for the Alternate
Threshold for Low-Level Releases and
Transfers****A. General Approach**

Congress intended that the data collected by EPA under EPCRA section 313 be used to inform persons about releases of toxic chemicals to the environment, assist the government, researchers, and the public in the conduct of research and data gathering, to aid in the development of appropriate regulations, guidance, and standards, and for other similar purposes (EPCRA

section 313(h)). Congress directed EPA to make this information publicly available on a cost-reimbursable basis through a computer data base, which EPA has done using the on-line TRI system (EPCRA section 313(j)).

EPCRA section 313 established a list of more than 300 chemicals and 20 categories for which TRI reporting is required (EPCRA section 313(c)). Facilities in SIC codes 20-39 which manufacture, process, or otherwise use over certain threshold amounts of a listed chemical must annually report their releases of such chemicals to EPA and the States. However, Congress recognized that this statutory framework need not remain immutable should EPA's experience in collecting data under TRI indicate that certain revisions to the reporting structure may be warranted. In directing and authorizing EPA to maintain and manage the TRI program, Congress also provided EPA with authority to revise the nature of and manner in which TRI data is reported to and collected by the Federal government.

In particular, Congress provided EPA authority to add or delete SIC codes (section 313(b)(1)(B)), apply the reporting requirements to additional facilities (section 313(b)(2)), add chemicals to or delete chemicals from the TRI list (section 313(d)), revise the reporting thresholds (section 313(f)(2)), modify the reporting frequency (section 313(i)), and prescribe such other regulations as may be necessary to carry out the Act (section 328). In providing EPA these authorities, Congress also recognized that EPA may see fit to tailor any such revisions to specific facility or chemical, a broad category of facilities or class of chemicals, to all or only some forms submitted to EPA, or to a specific or more general geographic area.

In the spirit of this broad statutory mandate, and Congressional recognition of the need for flexibility given changing national needs and priorities, EPA has already announced its intent to significantly expand the scope of the TRI program. EPA's proposed rule to add 313 chemicals and a chemical category to the list of reportable chemicals established under EPCRA section 313(c) (January 12, 1994, 59 FR 1788) is expected to add an estimated 28,000 new reports to TRI based on the current threshold levels. In addition, EPA is in the process of identifying and evaluating additional industry sectors for inclusion in TRI reporting. The addition of industry sectors beyond the current manufacturing sector is expected to substantially increase the level of current reporting.

EPA recognizes that the addition of this new information to TRI is expected to carry significant reporting costs to industry, as well as Federal and state costs to manage and provide the data to the public. Nonetheless, given existing national and local concerns over chemical management practices, consistent with its statutory authorities, EPA believes that these anticipated expansions, and their attendant costs, are necessary to provide the public more complete information on significant chemical uses and releases.

However, EPA also believes that its years of experience with the collection of TRI data allow EPA to propose certain changes to the nature of the reporting obligations imposed on industry without compromising EPA's duty to collect and disseminate relevant information to the public on chemical releases. EPA has examined whether some of the information currently collected under TRI as presently structured may be of lesser "value" than some of the new reports expected to be received as a result of EPA's efforts to expand TRI. In particular, many of the forms currently submitted report volumes of zero for releases and transfers. Additionally, there are forms that report zero volumes for all elements on the form. EPA believes that the space that such reports consume in the data base and the effort necessary to submit them would be better applied to those additional reports that contain positive values for releases and transfers of toxic chemicals. This proposal attempts to balance additional data needs with the burden to supply such data. EPA believes that it is possible, and consistent with its authorities under EPCRA, to create an alternative reporting threshold applicable to those facilities which annually release or transfer off-site (for the purpose of treatment and/or disposal) less than a specified amount of a listed TRI chemical. EPA further believes that this alternative reporting threshold, if implemented as proposed, will not result in a significant loss of data on chemical releases.

By creating such an alternative reporting threshold, the number of TRI reports annually submitted to EPA could be reduced by an estimated 20,500. This would result in a cost savings to both government and industry, and would offset some of the expected added costs associated with the anticipated expansions of the TRI program. Today's proposal attempts to balance the additional data needs represented by EPA's TRI expansion efforts with the burden to supply such data.

The proposed revision of the manufacture, process, and otherwise use thresholds described below is based on EPA's analysis and comments received during the pre-proposal process. As part of the pre-proposal process, which included a consideration of the comments received on the SBA Notice, EPA held a public meeting on February 16, 1994, to present its analytical findings and open discussions regarding reduced reporting for low volume releases and transfers. Comment was taken from a variety of positions. Results from EPA's preliminary analysis are presented in an issues paper, *Toxic Release Inventory—Small Source Exemption* (January 27 1994) (Issues paper), and can be obtained in the TSCA docket, OPPTS docket number 400087 along with copies of the testimony presented at the Public Meeting.

Based on EPA's analysis and comments received, EPA believes that reducing the number of TRI reports by raising reporting thresholds for those facilities having low-level amounts released and transferred will help EPA, states, and the reporting community to focus their attention and resources on reducing chemical uses and releases that are of greatest concern. Therefore, EPA is proposing the development of an alternative threshold based on a category of facilities that have releases and transfers below a specified amount. EPA believes that this optional, alternative threshold will help balance costs (current and anticipated) that are associated with providing TRI information. This analysis is discussed further in part C of this section.

B. Description of Proposal

EPA is proposing that certain facilities may take advantage of a higher reporting threshold than those set out in 40 CFR 372.25 for any listed toxic chemical, if the sum of amounts of that chemical released and transferred (but only for the purpose of treatment and/or disposal) for that facility is below 100 pounds per year.

The revised thresholds would apply to a category of facilities on a per chemical basis for which the sum of the amounts described above is below 100 pounds per year. The alternate manufacture, or process, or otherwise use thresholds for each of the chemicals meeting the "low-level release" category would be an amount equal to or greater than 1 million pounds per year. If a facility meets these conditions, then that facility would not be required to file a Form R report for the reporting year for each chemical for which these conditions are met.

A facility would make several determinations to ascertain if it could take advantage of the higher alternate reporting threshold. The facility would first determine if it was a "covered facility" pursuant to 40 CFR 372.22. Currently a facility is a "covered facility" for purposes of EPCRA section 313 reporting if it: (a) Has 10 or more full-time employees, (b) is in SIC codes 20 through 39, and (c) manufactures, processes, or otherwise uses a listed toxic chemical in excess of the applicable statutory thresholds. EPA is proposing to amend the last condition to include those facilities which elect to apply the alternate reporting thresholds under the proposed 40 CFR 372.27. Therefore, a facility applying the alternate threshold would still be considered a "covered facility" under 40 CFR 372.22.

Once a facility makes this determination, it would then estimate the sum of its releases and transfers (for purposes of treatment and/or disposal) for each listed chemical manufactured, processed, or otherwise used at the facility. If this sum is below 100 pounds per year, the facility could then apply the higher alternate reporting threshold of 1 million pounds to determine its reporting obligation for that chemical, provided that it also meets the concomitant certification and recordkeeping requirements. A facility eligible for and choosing to apply the alternate revised threshold; would only be required to file a certification statement and maintain certain records in support of this certification. The facility would not be required to file a full Form R report for that chemical.

To take advantage of the revised thresholds, a facility would be required to: (a) Submit in writing an annual certification, indicating that the chemical for which the alternate threshold applies was released and transferred for the purposes of treatment and/or disposal in the sum of an amount less than 100 pounds per year; and (b) maintain and make available upon request accurate records substantiating the calculations supporting the release and transfer determination.

C. Explanation and Rationale for Proposal

Current reporting thresholds for manufacture, process, or otherwise use of listed section 313 chemicals are set forth in EPCRA section 313(f)(1). EPCRA section 313 does not provide EPA with direct authority to establish a reporting threshold under section 313(f)(1) based solely on amounts of estimated chemical releases. EPCRA section 313(f)(2) does, however, provide EPA

authority to revise the established activity threshold amounts in section 313(f)(1).

The Administrator may establish a threshold amount for a toxic chemical different from the amount established by paragraph (1). Such revised threshold shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section. The amounts established under this paragraph may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

Today EPA is proposing to define a category of facilities based on the volume of chemicals released. By establishing a class of chemicals or category of facilities, a threshold modification associated with that class or category can be applied selectively. Facilities having total releases less than a certain amount for one or more chemicals would constitute a category of facilities. This category would then be eligible to take advantage of a revised manufacture, process, or otherwise use threshold for that specific chemical. In this way, only those facilities that fit within the category and relevant chemicals at those facilities, would be affected.

EPA believes that it is appropriate to base the category determination on releases and transfers (for the purpose of treatment and/or disposal only). Although other elements on Form R may have significant volumes associated with them, EPA believes the combination of releases and such transfers on Form R approximate a facility's actual and/or potential environmental loadings. EPA believes that the proposed aggregate release level of less than 100 pounds represents an optimum balance between the need to limit the loss of TRI information made available to the public while eliminating reporting of data that is of lesser utility to the public. Based on 1991 data, an estimated 20,500 forms, or approximately one quarter of all Form Rs submitted, would qualify for the alternate threshold. As indicated in Table 1 below, the number of reports affected increase at a relatively proportionate rate as the aggregate release level for the category increases. However, above the 100 pound category level, the volumes of releases and transfers (for the purpose of treatment and/or disposal) depict a notable increase from 200,000 to 1,400,000 pounds for the respective category levels of 100 and 250 pounds. Results between the 100 and 250 pound category levels also indicate a significant increase in total waste generated, as well as in the number of

counties with resultant decreases of information. These results indicate a natural break in the data indicating a point of balance between the two objectives of reducing the reporting burden and continuing to provide information of the greatest utility to the public. The selection of the alternate threshold for manufacture, process, or otherwise use of 1 million pounds represents a compromise that seeks to provide those facilities with aggregate releases and transfers below 100 pounds per chemical with an effective exemption from Form R reporting, while recognizing that even the most "well-controlled" facilities would find it difficult to manage chemicals in amounts of nearly 1 million pounds per year and only incur aggregate releases and transfers of below 100 pounds per year.

As noted above, EPCRA section 313(f)(2) requires that any revision to the current reporting thresholds continue to capture a substantial majority of total releases of the chemical. EPA believes this requirement should be interpreted as applying to each listed chemical or category and not to total releases for all chemicals nationally. EPA believes such an interpretation is consistent with the intent of Congress.

The Administrator may modify these threshold amounts for a particular chemical, provided the revised threshold results in reporting on a substantial majority of the aggregate releases of the chemical at facilities subject to this section, but it would not necessarily require reporting from each facility (Ref. 2).

The analysis described in the *Impact on Reporting* discussion below indicates that there would be an almost complete loss of reports on a very limited number of chemicals with very low volumes of releases and transfers based on an alternate reporting threshold below the 100 pound release level. This is confirmed by similar results conducted on the 1992 data set which is also provided in the *Impact on Reporting* discussion. However, EPA believes that the proposed annual certification requirement, if implemented as proposed, would serve to maintain reporting on a substantial majority of releases of all chemicals that may be affected by the proposed alternate reporting threshold, including those discussed below in the unit titled *Impact on Reporting*.

Annual Certification. EPA is proposing that each qualifying facility which chooses to apply the revised manufacture, process, or otherwise use thresholds, must file an annual certification statement in lieu of a full

Form R report. The proposed annual certification would provide an indication that the sum of amounts released and transferred for the purpose of treatment and/or disposal for each listed chemical for which the alternate threshold is being applied did not exceed 100 pounds. This information can be made available in the same manner that the information reported on Form R is made available. Currently, facilities releasing less than 100 pounds may indicate on Form R that they released from 1 to 10 pounds and 11 to 499 pounds. This is known as a "range report." The certification statement would act as the functional equivalent of a range report of zero to 99 pounds for combined releases and transfers for treatment and/or disposal. In this way information on a substantial majority of both releases and transfers for the purpose of treatment and/or disposal would be maintained, which would satisfy the statutory intent of EPCRA section 313(f)(2). EPA also believes that this approach would address several of the concerns addressed by comments during the pre-proposal process.

During the development of this proposal and at the February 16, 1994 Public Meeting, EPA received a number of comments regarding a certification requirement. Some of the commenters favor a one-time certification by a facility that releases and transfers are within the limits established for the alternate threshold. The facility and chemical information would be recorded, and if there are changes in amounts released or transferred which would no longer allow the application of the alternative threshold, then full reporting would be reinstated.

Other commenters support an annual certification. These commenters contend that an annual certification has the effect of continued verification that releases and transfers are below the level established for a facility category. These commenters believe that without an annually submitted certification statement, reports for prior years would have to be compared with each consecutive reporting year to identify a potential non-reporter. Any attempt to verify if non-reporting may have occurred would require a follow up activity. Comments also assert that an annual statement helps to ensure that operators are aware of specific chemical

uses and releases, thereby promoting good housekeeping practices. Additional comment in support of an annual certification statement described some state programs that currently survey facilities that reported in prior years but did not submit reports for the year under review.

After considering these comments, and the language of section 313(f)(2), EPA believes that an annual certification statement best addresses the statutory mandates and the public's right-to-know. EPA believes that the proposed annual certification will provide information relating to the location of facilities manufacturing, processing, or otherwise using these chemicals, that the chemicals are being manufactured, processed or otherwise used at current reporting thresholds, and that chemical releases and transfers for the purpose of treatment and/or disposal are below 100 pounds per year (i.e., within a range of zero to 99 pounds per year). This provides a sufficient indication of the potential volume of releases and such data can be made available to the public in the same manner as current Form R data. An annual statement will assist users of TRI data in distinguishing facilities which changed their chemical uses, and therefore were no longer required to report, from those that were required to, but did not report. An annual certification would assist those states that do not have the resources to survey facilities operating in their state as well as the public that use the data.

Finally, EPA believes the proposed annual certification requirements would foster continued attention to chemical management practices and provide a locational tool vital to any compliance program or other interested party. EPA believes it necessary to receive some type of specific indication that a facility was taking advantage of the alternate threshold annually to assist in any compliance monitoring and enforcement efforts.

EPA is interested in receiving comment on this approach and on alternatives, for example, requiring a certification statement every 3 or 5 years as opposed to annually. EPA would also like comment on the elements contained in the certification statement. In particular, are the elements appropriate for such a certification statement, and

are all such elements necessary and sufficient? The elements EPA is proposing can be found in the amendment to the regulatory text of § 372.85.

Recordkeeping. EPA is also proposing that each facility taking advantage of the alternate threshold be required to maintain and make available upon request records for a period of 3 years from the date of the submission of the certification statement. These records would provide substantiation that an appropriate threshold determination was made and that estimated releases and transfers, for the purpose of treatment and/or disposal, were below 100 pounds for that reporting year. This documentation is necessary for any compliance effort verifying the claims made by a facility taking advantage of the alternate threshold.

Impact on Reporting. In developing this proposal, EPA analyzed TRI data to determine the impact of various options on the number of Form R reports that would no longer be received by EPA, amount and nature of chemical release information that would no longer be available to the public, and savings to industry, EPA, and State governments due to the reduced reporting and data management costs. EPA's preliminary analysis was contained in an Issues Paper made available at the Public Meeting held on February 16, 1994 (Ref. 3).

After the public meeting, EPA conducted additional analysis to estimate the impact on reporting of the creation of an alternate reporting threshold for a category of facilities for which annual releases and transfers off-site for the purpose of treatment and/or disposal were reported as below certain threshold levels, ranging from zero to below 5,000 pounds.

The following analytical results are based on 1991 and 1992 TRI data. These are the only data sets that contain the information on releases and transfers for the purpose of treatment and/or disposal plus the elements reported under the Pollution Prevention Act needed to calculate the impact of the alternate threshold being proposed by this document. A summary of the major findings for the volume-based category options considered are provided below:

Table 1—Summary of Analytical Findings (Alternate Reporting Threshold Based on Releases and Transfers*)

Threshold Level (pounds)	No. of Reports Affected (1,000)	Volume Release and Transfers* Affected (pounds)	Percent of Total Release and Transfer*	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91-100 % Loss of Release and Transfer* Data
0/NA	10.2	0.0	0.00%	1,203.7	3.3%	0

Table 1—Summary of Analytical Findings (Alternate Reporting Threshold Based on Releases and Transfers*)—Continued

Threshold Level (pounds)	No. of Reports Affected (1,000)	Volume Release and Transfers* Affected (pounds)	Percent of Total Release and Transfer*	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91–100 % Loss of Release and Transfer* Data
10	16.2	35,000	0.00%	1,687.3	4.9%	36
100	20.5	200,000	0.01%	2,260.7	6.3%	52
250	26.2	1,400,000	0.03%	3,059.7	8.5%	94
500	33.0	4,000,000	0.1%	3,864.3	10.7%	141
1,000	38.9	8,400,000	0.2%	5,583.8	15.5%	177
5,000	50.1	36,200,000	0.8%	7,786.7	21.6%	254

*Release and transfers for the purpose of treatment and/or disposal. (Data taken from 1991 reporting.)

EPA estimates that a total of 20,500 forms reported releases and transfers, as defined by this proposal, within the range of zero to 99 pounds based on both 1991 and 1992 data. For 1991, these forms originated from an estimated 10,200 facilities, of which 3,600 facilities would have met the "low-level release" category determination for all chemical reports submitted. For 1992 reporting, the 20,500 forms affected by the alternate thresholds originated from an estimated 10,600 facilities, of which 3,800 facilities would have met the "low-level release" category determination for all chemical reports submitted.

The amounts reported for releases and transfers as defined by EPA's proposal for the 20,500 forms totaled approximately 200,000 pounds for 1991 reporting and 164,200 pounds for 1992. This represents less than 1/100th of 1 percent of the total (4.5 billion) pounds reported for releases and transfers for treatment and/or disposal for 1991. Results for 1992 data are basically the same. Those Form R reports that indicated a range code of B, which represents a range between 11 and 499 pounds in any of the data elements used to make the "low-level release" category determination, were not counted. For the purpose of data management, a midpoint value is assigned in places where a range code is reported. The value assigned to range code B is 250 pounds. A report that submitted a range code of B in any element used to make the "low-level release" category determination, regardless of the amounts submitted in the remaining elements, would appear to be over the 100 pound category level. Therefore, the following results of EPA's analysis could underestimate the number of reports impacted in cases where actual amounts released or transferred for the purpose of treatment and/or disposal were below 100 pounds and the corresponding report indicated a range code of B. Based on 1991 data,

approximately 4,600 Form Rs reported a range code indicating volumes within the range of 11–499 pounds for at least one element being used to define the category.

The total wastes volumes (amounts defined by releases and transfers for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with the 20,500 forms totaled approximately 2,260,700,000 pounds. This represents approximately 6.3 percent of the total 36 billion pounds reported by all forms for 1991. Total waste volumes associated with the 20,500 forms estimated to be eligible to apply the alternate threshold for 1992 was 6,105,300,000 pounds, which represents approximately 16.7 percent of total waste reported for all forms.

EPA's analysis found that, based on 1991 data, 15 chemicals would no longer be reported on Form R to the Agency. In 1991, these 15 chemicals were reported on a total of 26 Form Rs. The total amounts released and transferred for the purpose of treatment and/or disposal from these 26 forms was less than 350 pounds.

Based on 1991 data, the 15 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total pounds
Alpha-Naphthylamine	2	10
4-Aminobiphenyl	1	4
C.I. Food Red 15	4	46
C.I. Solvent Yellow 3	2	15
2-Chloroacetophenone	1	2
2,4-Diaminoanisole	1	85
3,3'-Dimethoxybenzidine	2	4
Heptachlor	1	5

Chemical Name	Number of Reports	Total pounds
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
p-Anisidine	3	26
2,4,6-Trichlorophenol	2	82
2,6-Xyldine	2	21
Zineb	1	5
Total	26	319

From these numbers, it can be seen that these are chemicals for which very low releases and transfers are reported nationally. A similar analysis was conducted on 1992 data. Results from the 1992 data, indicate that 7 chemicals would no longer be reported on Form R with a "low-level release" category determination of less than 100 pounds. These 7 chemicals were reported on a total of 14 TRI reporting forms, with total amounts released and transferred for the purpose of treatment and/or disposal of less than 300 pounds.

Based on the 1992 data, the 7 chemicals for which Form R would no longer be filed are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal for each chemical.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphthylamine	2	10
4-Aminobiphenyl	1	3
Cupferron	1	79
3,3'-Dimethoxybenzidine	3	8
p-Anisidine	3	31
2,4,6-Trichlorophenol	1	87
2,6-Xyldine	3	59
Total	14	277

D. Alternative Options

--The following four options are being presented for comment as alternatives to EPA's proposal. The first three options are constructed in the same manner as EPA's proposal, except the amount of "low-level releases" presented by the sums of releases and transfers for the purpose of treatment and/or disposal per chemical per year are: (1) Less than 500 pounds, (2) less than 10 pounds or, (3) zero (or not applicable). The fourth alternative that EPA is considering creates a facility category based on amounts reported for total waste generation.

1. *Category: less than 500 pounds per year.* This option would allow facilities that meet current reporting requirements but that have a chemical or chemicals for which the sum of amounts released and transferred for the purpose of treatment and/or disposal is below 500 pounds, to apply a higher reporting threshold to that chemical or chemicals. As described in unit B above, the alternate thresholds for manufacture, process, or otherwise use would be applied on a per chemical basis. The alternative reporting threshold would be equal to or greater than 1 million pounds.

Based on 1991 data, EPA estimates that a total of 33,000 forms reported total releases and transfers for the purpose of treatment and/or disposal of less than 500 pounds. The combined total reported for releases and transfers for the purpose of treatment and/or disposal by these forms was approximately 4,000,000 pounds. This represents approximately 1/10th of 1 percent of the total 4.5 billion pounds reported for such releases and transfers for 1991. The total waste volumes (sum of amounts released and transferred for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with these 33,000 forms totaled approximately 3,864,300,000 pounds. This represents approximately 10.7 percent of the total 36 billion pounds reported by all forms for 1991.

An alternate threshold applied to a category of less than 500 pounds is estimated to result in 20 chemicals which would no longer be reported on Form R. These 20 chemicals were reported on 37 forms with a national total of 1,814 pounds of releases and transfers for treatment and/or disposal based on 1991 data. The 20 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total

pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphylamine	2	10
4-Aminobiphenyl	1	4
4-Aminoazobenzene	1	441
p-Anisidine	3	26
2-Chloroacetophenone	1	2
C.I. Food Red 15	4	46
C.I. Solvent Yellow 3	2	15
2,4-Diaminoanisole	1	85
1,2-Dibromo-3-Chloropropane	2	290
Dichlorobromomethane	1	200
3,3'-Dimethoxybenzidine	2	4
p-Dinitrobenzene	1	164
Heptachlor	1	5
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
Propyleneimine	6	400
2,4,6-Trichlorophenol	2	82
2,6-Xylidine	2	21
Zineb	1	5
Total	37	1,814

A facility category based on the sum of amounts released and transferred for the purpose of treatment and/or disposal of less than 500 pounds will certainly allow many more facilities to apply for the alternate threshold. Based on 1991 reporting, approximately 40 percent of those forms submitted would be eligible. However as can be seen from referencing Table 1, these additional forms account for a significantly larger amount of release, transfer, and total waste generation data that would no longer be available.

2. *Category: less than 10 pounds per year.* This option would allow facilities that meet current reporting requirements but that have a chemical or chemicals for which the sum of amounts released and transferred for the purpose of treatment and/or disposal is below 10 pounds, to apply a higher reporting threshold to that chemical or chemicals. As described in part B above, the alternate thresholds for manufacture, process, or otherwise use would be applied on a per chemical basis. The alternative reporting threshold would be equal to or greater than 1 million pounds.

Based on 1991 data, EPA estimates that a total of 16,200 forms reported total releases and transfers for the purpose of treatment and/or disposal of less than 10 pounds. The combined total reported for releases and transfers for the purpose of treatment and/or disposal by these forms was approximately 35,000 pounds. This

represents less than 1/100th of 1 percent of the total 4.5 billion pounds reported for such releases and transfers for 1991. The total waste volumes (sum of amounts released and transferred for the purpose of treatment and/or disposal plus the Pollution Prevention Act reporting elements) associated with these 16,200 forms totaled approximately 1,687,300,000 pounds. This represents approximately 4.9 percent of the total 36 billion pounds reported by all forms for 1991.

An alternate threshold applied to a category of less than 10 pounds is estimated to result in 9 chemicals which would no longer be reported on Form R. These 9 chemicals were reported on 12 forms with a national total of 44 pounds of releases and transfers for treatment and/or disposal based on 1991 data. The 9 chemicals for which most or all of the information on Form R would no longer be reported are presented below with the corresponding number of reports submitted per chemical and the total pounds released and transferred for the purpose of treatment and/or disposal.

Chemical Name	Number of Reports	Total Pounds
Alpha-Naphylamine	2	10
4-Aminobiphenyl	1	4
2-Chloroacetophenone	1	2
3,3'-Dimethoxybenzidine	2	4
Heptachlor	1	5
Isosafrole	1	10
Methyl Hydrazine	2	1
Michler's Ketone	1	3
Zineb	1	5
Total	12	44

It is apparent from these numbers that a facility category of less than 10 pounds would impact a subset of the information reported by those reports comprising the less than 100 pound category

3. *Category: zero pounds or not applicable.* This option would create a category of facilities based on the sum of amounts released and transferred for the purpose of treatment and/or disposal of zero pounds or not applicable. As described in EPA's proposal, the alternate manufacture, process, or otherwise use thresholds would be applied on a per chemical basis for those listed chemicals where the sum of amounts released and transferred for the purpose of treatment and/or disposal from a facility was zero pounds or not applicable. The corresponding alternate threshold

would be equal to or greater than 1 million pounds.

A report may indicate not applicable in such cases where a release is not associated with a particular medium for a given chemical. An example of this could be a constituent that is part of an aqueous waste and remains in solution with all releases directed to a receiving stream where there are no direct releases to land. In this case, elements on the form pertaining to land releases would not apply.

EPA estimates that a total of 10,200 forms reported releases and transfers, for the purpose of treatment and/or disposal, of zero or not applicable. These forms originated from an estimated 6,100 facilities, of which 1,900 facilities would have met the "low-level release" category determination for all chemical reports submitted.

By definition, no amounts were reported for releases and transfers, for the purpose of treatment and/or disposal, by the 10,200 forms. However, these forms do have total wastes volumes associated with them. An estimated total of 1,203,700 pounds

were reported by the 10,200 forms for the Pollution Prevention Act reporting elements for 1991. This represents approximately 3.3 percent of the total 36 billion pounds reported by all forms.

Form Rs reporting total releases and transfers for treatment or disposal equal to zero pounds or not applicable would by definition not impact the continued collection of a substantial majority of releases for the chemical reported.

4. *Alternate threshold based on total waste generation.* This alternative creates a category based on the total of all volumes reported. Reporting elements included in the total waste generation option include information collected under section 6607 of the Pollution Prevention Act such as amounts treated on-site, amounts recycled on-site and off-site, and volumes used for energy recovery on-site and off-site. This information was first publicly made available in reports submitted for reporting year 1991. The rationale for using this approach is that the data set collected currently is much broader than the data set collected under TRI prior to 1991 and provides more information on the TRI chemicals

being managed by reporting facilities. Setting a category designation by only the volume of releases and transfers for treatment and/or disposal results in the loss of the more detailed waste management and source reduction efforts both current and projected. There can be situations in which low volumes of releases in any given year are still associated with large volumes of the TRI chemicals in waste that are treated, recycled or burned for energy recovery. For example, the zero level represented by Alternative 3 above results in a loss of reporting of over 1 million pounds of waste management activity.

One purpose of the Pollution Prevention Act is to help users of the data understand the details of facility waste management and source reduction practices. This reporting also encourages facilities to focus attention on both the current and future potential for release reductions as well as source reduction opportunities.

Presented below in Table 2 are data taken from 1991 indicating the impact of a facility category based on total waste generation at various levels.

Table 2.—Summary of Analytical Findings (Alternate Reporting Threshold Based on Total Waste Generation*)

Category Level (pounds)	No. of Reports Affected (1,000)	Volume Total Waste Affected (million pounds)	Percent Total Waste	No. of Counties with 91-100% Loss of Total Waste Generation* Data
0/NA	6.3	0.0	0.0%	0
10	10.0	0.02	0.0%	13
100	13.0	0.15	0.0%	24
250	16.7	0.94	0.0%	52
500	21.3	2.66	0.01%	89
1,000	25.7	5.86	0.02%	117
5,000	34.8	28.81	0.08%	171

*Total waste generation includes releases and transfers plus the Pollution Prevention Act data. (Data taken from 1991 reporting.)

Based on these figures, it is evident that a cut-off level for defining the category of facilities eligible for the revised threshold based on total waste generation would have to be set at a higher level than one based only on releases and transfers (for the purpose of treatment and/or disposal only) to achieve a similar reduction in the number of Form R reports. For example, in order to eliminate the submission of an estimated 20,500 reports based on a release and transfer category definition, the cut-off level for eligibility would be 100 pounds. See Table 1 above. To achieve a similar reduction in number of reports, an estimated 21,300 reports, based on a total waste category definition, the cut-off level for eligibility would have to be set at 500 pounds. See Table 2 above.

A disadvantage of establishing a category of facilities based on total

waste generation is that it provides a much higher standard for facilities to meet in order to take advantage of an alternate threshold. In addition, establishing a category based on total waste generation would require the facility to complete all of the calculations on Form R for a given chemical. This would further diminish the savings in time and resources in preparing these calculations which would be provided by this proposed rule. Finally EPA would have to carefully consider whether an alternate manufacture, process, or otherwise use threshold of 1 million pounds would be sufficient to effectively exempt those Form R submissions.

III. Other Approaches Considered

EPA requested comment in the SBA notice on alternative approaches to the development of a TRI reporting

exemption based on releases and transfers. Numerous suggestions were submitted, and alternative approaches for modifying current reporting were considered. These approaches fall within four main categories: (1) Modifications to the manufacture, process, or otherwise use thresholds based on classes of chemicals or categories of facilities (being proposed in this document); (2) general revision to the manufacture, process, or otherwise use thresholds; (3) altering the frequency of reporting; and (4) other administrative changes, such as a revision of the article exemption.

1. *Threshold modifications based on classes of chemicals or categories of facilities.* The approach put forth in EPA's proposal is a threshold modification for a facility category based on amounts released and transferred for the purpose of treatment

and/or disposal. Another option that falls within an approach based on classes of chemicals or categories of facilities is that put forth in SBA's petition. For the purposes of organizing discussion in this section, SBA's approach will be referred to as a List Division.

List Division. The SBA petition proposed dividing the list of section 313 reportable chemicals and applying different exemption levels to each set of chemicals. The two primary principles behind a list division would be to set a lower reporting threshold for those chemicals thought to pose greater potential hazard concerns, and to ensure that reporting on a substantial majority of releases would be retained for lower volume chemicals. SBA asserts that one benefit of such an approach is that it could eliminate a significant number of reports on "high volume" chemicals while preserving reports on "highly toxic" chemicals released in low volumes. The results of EPA's analysis are presented in Appendix B-1 of the Issues paper (Ref. 3).

Comment received on the SBA Notice addressed the impact of and basis upon which a list division could be created. Some commenters suggested that the list division proposed in the SBA petition was unfounded, and that adopting the Reportable Quantity (RQ) scheme associated with the reporting of extremely hazardous substances (EHS) under EPCRA section 304 would be a more supportable approach because the methodology that distinguishes among chemicals already exists. The classification scheme used to determine reporting obligations under EPCRA section 304 divides the list into chemicals having RQs of 1, 10, 100, 1,000, and 10,000 pounds, depending on the chemical. The application of these values to the TRI listed chemicals could create as many as five classes of chemicals with each having a different release and transfer level. Many of the TRI listed toxic chemicals do not have RQ values assigned to them. This approach would add multiple levels of complexity to the TRI reports. In addition, EPA has received comment regarding the lack of conclusive data supporting a division of the currently listed chemicals to adequately address concerns of carcinogenicity, teratogenicity, and general hazards that may be posed from continued low-level releases that might go unreported if a reporting modification is made. In addition, EPA believes that creating different categories with varying levels assigned by chemical would further complicate an attempt to provide a reduction in burden associated with TRI

reporting. It is EPA's intent to develop a reporting modification that can be implemented as simply as possible, while preserving the utility of the TRI data.

2. *Revision of the otherwise use threshold.* EPA has authority under section 313(f)(2) to revise the manufacture, process, or otherwise use threshold amounts. An upward revision of any of these amounts would eliminate reports from those facilities that manufacture, process, or otherwise use a listed chemical below the revised activity threshold level.

Form R does not request information on amounts manufactured, processed, or otherwise used for the chemical being reported. However, the amounts of listed chemicals otherwise used by TRI facilities can be estimated based on analytically plausible assumptions. For this reason, EPA conducted an analysis on an estimated change in the otherwise use threshold. The description of this analysis and the associated findings can be found in Appendix B-2 of the Issues paper (Ref. 3).

One benefit of this approach is that it is simpler to implement and enforce compared to revisions based on sums of volumes reported on Form R, such as that described as an Alternative Threshold Modification. Identifying the amounts otherwise used, manufactured, or processed is one of the first pieces of information a facility develops as part of its compliance determination.

A disadvantage of this approach is that it is much less selective in its ability to equate an effective exemption with a report of relatively low volume of releases. For example, raising the otherwise use threshold from 10,000 to 25,000 pounds could eliminate an estimated 18,000 reports. However, the release information contained in any such report could range from zero to 25,000 pounds per year because certain uses may result in environmental releases of all quantities used.

3. *Altering the reporting frequency.* Section 313(i)(A) provides EPA authority to modify the current annual reporting frequency. Such a modification cannot increase reporting to be more often than on an annual basis. Such a modification can be applied either nationally or to a specific geographic area, to the following: all toxic chemical release forms, a class of chemicals or a category of facilities, a specific toxic chemical, and a specific facility. By reducing the frequency of reporting, facilities would not be subject to an annual reporting requirement, but might be requested to maintain activity information for non-reporting years and submit this information during a

reporting year. For example, a class of facilities may be identified as operating in a very similar manner with little chemical use or release changes. For these facilities, it may be sufficient to have Form R reports submitted less frequently than on an annual basis. It could also be possible to define a category of facilities, similar to the alternate threshold modification described above, and make their reporting frequency "0" years, thus effectively exempting these facilities from reporting.

Under section 313(i), to propose a revision of the current reporting frequency EPA must meet certain conditions. One such condition requires EPA to notify Congress 1 year prior to initiating rulemaking procedures, in addition to making certain findings and meeting a substantial evidence standard of review. EPA believes that such an approach could unduly lengthen the time required to implement the alternative threshold provision.

4. *Revision of the article exemption.* Comments on the SBA notice included suggestions to revise the article exemption, 40 CFR 372.38(b), so that the absence of releases from "articles" would no longer be a condition for retaining the article status of materials processed or used at a facility. Currently, if a toxic chemical is released from the normal processing or use of an item at the facility, then that item cannot be considered an article, unless all such releases are recycled.

By eliminating the release condition within the article definition, more items could be considered as articles and the listed chemicals associated with them would not be counted toward reporting thresholds.

EPA does not believe that elimination of this release criterion is appropriate nor does it provide an effective alternative for establishing a specific low volume, released-based approach for reducing the current level of reporting burden.

IV Request for Comment on the Issues Listed Below

EPA requests comment on any aspect of this proposal. However, EPA requests specific comment as detailed in the following paragraphs.

Should an alternate reporting threshold based on low-levels of releases and transfers carry with it a provision that would require some period of full Form R reporting prior to taking advantage of the alternate reporting threshold? This provision would apply to reporting by new facilities added either by a change in chemical activity or inclusion of

additional industry sectors, or by adding chemicals to the section 313(c) TRI list. Such a provision could be useful for establishing a "baseline" of activity that would provide reporting on all of the elements contained on Form R prior to accepting an annual certification.

EPA would like to hear from those states that have adopted EPCRA and EPCRA-like laws regarding how adopting an alternate threshold such as that being proposed would affect their program.

Would states find an alternative reporting threshold based on zero releases and transfers more difficult to enforce than an alternative reporting threshold based on another release level (e.g., 10–500 pounds)?

EPA requests comment on the potential loss of Pollution Prevention Act data that would result from adopting a facility category approach defined by amounts released and transferred for the purpose of treatment and/or disposal at any level.

EPA requests comment on the effectiveness, in terms of providing a reduction in the current level of reporting burden with the need to continue to collect data on and promote total waste management, of establishing a facility category based on amounts reported for total waste generation.

EPA requests comment on any activity that has focused on reports of low-level releases, specifically for such reports that would be effected by this proposal.

V. Rulemaking Record

All documents related to this rulemaking (reference docket number OPPTS–400087) are available to the public in the TSCA Nonconfidential Information Center (NCIC) from noon to 4 p.m., Monday through Friday excluding legal holidays. The NCIC is located at EPA headquarters, Rm. NE–B607 401 M St., SW., Washington, DC 20460.

VI. References

(1) Memo, "Significance of Small Source Releases in Total Releases and Transfers for TRI Chemicals Preliminary Data Tables 1988 TRI Data," Kevin Bromberg to Mary Ellen Weber, Environmental Protection Agency February 28, 1991.

(2) U.S. Congress, House of Representatives. "Conference Report No. 962," 99th Cong., 2nd Session. 296 (1986).

(3) USEPA/OPPT. Toxic Release Inventory—Small Source Exemption, (Issues Paper). U.S. Environmental Protection Agency Washington, DC, (January 27 1994).

(4) SIC Code 2048 Analysis.

VII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

EPA's economic analysis estimates that 20,500 reports submitted on Form R for the currently listed chemicals would be eligible for the certification as a result of the proposed alternative reporting threshold outlined in Unit II.B. of this preamble. This would result in savings of \$26 million per year for affected facilities, and \$680,000 per year for EPA.

Pursuant to the terms of this Executive Order, EPA has determined that this proposed rule is "significant."

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities would be significantly affected by the proposed rule. Because the proposed rule would result in cost savings to facilities, EPA certifies that small entities would not be significantly affected by the proposed rule.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An

Information Collection Request document has been prepared by EPA (ICR No. 1704.01) and a copy may be obtained from Sandy Farmer, Information Policy Branch, (Mail Code 2136), EPA, 401 M St., SW., Washington, DC 20460 or by calling (202)260–2740.

This collection of information has an estimated reporting burden averaging 27 hours per response and an estimated annual recordkeeping burden averaging 4 hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The burden for this reporting activity will be subtracted from the Form R information collection when that ICR (No. 1363) is renewed.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, (Mail Code 2136), EPA, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 372

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

Dated: July 15, 1994.

Carol M. Browner,
Administrator.

Therefore, it is proposed that 40 CFR part 372 be amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

2. In § 372.10, by adding a new paragraph (d) to read as follows:

§ 372.10 Recordkeeping.

(d) Each person who determines that they may apply the alternative reporting threshold as specified under § 372.27(a) must retain the following records for a period of 3 years from the date of the submission of the certification as required under § 372.27(b):

(1) A copy of each certification submitted by the person under § 372.27(b).

(2) All supporting materials and documentation used by the person to make the compliance determination that the facility or establishments is a covered facility under §§ 372.22 or 372.45.

(3) Documentation supporting the certification submitted under § 372.27(b) including:

(i) Data supporting the determination of whether the alternative reporting threshold specified under § 372.27(a) applies for each toxic chemical.

(ii) Documentation supporting the calculations of the quantity of each toxic chemical released to the environment or transferred to an off-site location.

(iii) Receipt or manifests associated with the transfer of each chemical in waste to off-site locations.

3. In § 372.25, by revising the introductory paragraph to read as follows:

§ 372.25 Thresholds for reporting.

Except as provided in § 372.27 the threshold amounts for purposes of reporting under § 372.30 for toxic chemicals are as follows:

4. By adding a new § 372.27 to read as follows:

§ 372.27 Alternate threshold and certification.

(a) With respect to manufacture, process, or otherwise use of a toxic chemical, a covered facility may apply

an alternative reporting threshold of 1 million pounds per year if the facility calculates that it would have reported releases of less than 100 pounds per year of the toxic chemical, as a combined total of the following:

(1) Releases pursuant to § 372.85(b)(15), and

(2) Transfers, but only for the purpose of treatment and/or disposal, pursuant to § 372.85(b)(16).

(b) If the facility determines that it may apply the alternative reporting threshold specified in paragraph (a) of this section for a specific toxic chemical, the facility is not required to submit a report for that chemical under § 372.30, but must submit a certification statement including the information required under § 372.85(c). The facility must also keep records as specified in § 372.10(d).

(c) Each certification statement under this section for activities involving a toxic chemical that occurred during a calendar year at a covered facility must be submitted on or before July 1 of the next year.

5. In § 372.85, by adding a new paragraph (c) to read as follow:

§ 372.85 Toxic chemical release reporting form and instructions.

(c) Alternative threshold certification statement elements. The following information must be reported on an alternative threshold certification statement pursuant to § 372.27(b):

(1) Reporting year.

(2) An indication of whether the chemical identified is being claimed as trade secret.

(3) Chemical name and CAS number (if applicable) of the chemical, or the category name.

(4) Signature of a senior management official certifying the following:

I hereby certify that for each toxic chemical listed in this report, the combined releases and transfers (for the purpose of treatment and/or disposal only) were less than 100 pounds for this reporting year and that the chemical was not manufactured, processed, or otherwise used in amounts equal to or greater than 1 million pounds during this reporting year.

(5) Date signed.

(6) Facility name and address.

(7) Mailing address of the facility if different than paragraph (c)(6) of this section.

(8) Toxic chemical release inventory facility identification number if known.

(9) Name and telephone number of a Technical Contact.

(10) SIC code(s).

(11) Latitude and longitude.

(12) Dun and Bradstreet Number.

(13) EPA Identification Number(s) (RCRA I.D. Number(s)).

(14) Facility NPDES Permit Number(s).

(15) Underground Injection Well Code (UIC) I.D. Number(s).

(16) Name of parent company.

(17) Parent company's Dun and Bradstreet Number.

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