

subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by March 25, 1999.

**ADDRESSES:** Written comments should be addressed to Robert Kramer, Chief, Energy, Radiation and Indoor Environment Branch; Mailcode 3AP23; U.S. Environmental Protection Agency, Region III; 1650 Arch Street; Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Larry Budney, (215) 814-2184, at the EPA Region III address above, or by e-mail at budney.larry@epamail.epa.gov. While clarifying questions and requests for additional information may be transmitted via e-mail, comments on this rulemaking must be submitted in writing in accordance with the procedures provided earlier in this document.

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action to approve the Delaware Regulation 32—Transportation Conformity that is located in the “Rules and Regulations” section of this **Federal Register** publication.

Dated: February 5, 1999.  
**W. Michael McCabe,**  
*Regional Administrator, EPA Region III.*  
 [FR Doc. 99-3991 Filed 2-22-99; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 372**

[OPPTS-400132A; FRL-6061-7]  
**RIN 2070-AD09**

**Persistent Bioaccumulative Toxic (PBT) Chemicals; Amendments to Proposed Addition of a Dioxin and Dioxin-Like Compounds Category; Community Right-to-Know Toxic Chemical Release Reporting; Notice of Availability and Clarification of Proposed Rule**

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

**ACTION:** Notice of availability and clarification of proposed rule.

**SUMMARY:** On January 5, 1999, EPA issued a proposed rule to lower the reporting thresholds for certain persistent bioaccumulative toxic (PBT) chemicals that are subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). The proposed rule also included the addition of certain PBT chemicals, amendments to the proposed rule to add a dioxin and dioxin-like compounds category, as well as other related reporting changes. The purpose of this document is to inform interested parties of the availability of an additional document concerning one of the reporting threshold options discussed in the proposed rule. This

document also contains clarifications to the discussion concerning the reporting limitation for certain metals when contained in alloys.

**DATES:** Written comments, identified by the docket control number OPPTS-400132, must be received by EPA on or before March 8, 1999.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I of the “SUPPLEMENTARY INFORMATION” section of this document.

The document entitled “Analysis of Potential Small Entity Impacts Associated with Option 1 of the TRI PBT Proposal” is now available from the public docket. Refer to Unit I.B.2. of this document for the location and hours of operation for the public docket.

**FOR FURTHER INFORMATION CONTACT:** Daniel R. Bushman, Petitions Coordinator, 202-260-3882, e-mail: bushman.daniel@epamail.epa.gov, for specific information on the 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. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you manufacture, process, or otherwise use any of the chemicals listed under Table 1 in Unit V.C.1. of the January 5, 1999 proposed rule (64 FR 688) (FRL-6032-3). Potentially affected categories and entities may include, but are not limited to:

Category	Examples of Potentially Affected Entities
Industry	Facilities that: incinerate or otherwise treat, store or dispose of hazardous waste or sewage sludge; operate chlor-alkali processes; manufacture chlorinated organic compounds, pesticides, other organic or inorganic chemicals, tires, inner tubes, other rubber products, plastics and material resins, paints, Portland cement, pulp and paper, asphalt coatings, or electrical components; operate cement kilns; operate metallurgical processes such as steel production, smelting, metal recovery furnaces, blast furnaces, coke ovens, metal casting and stamping; operate petroleum bulk terminals; operate petroleum refineries; operate industrial boilers that burn coal, wood, petroleum products; and electric utilities that combust coal and/or oil for distribution of electricity in commerce.
Federal Government	Federal facilities that: burn coal, wood, petroleum products; burn wastes; incinerate or otherwise treat, store or dispose of hazardous waste or sewage sludge.

This table is not intended to be exhaustive, but rather provides a guide

for readers regarding entities likely to be affected by this action. Other types of

entities not listed in the table could also be affected. 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.

#### *B. How Can I Get Additional Information or Copies of this Document or Other Support Documents?*

1. *Electronically.* You may obtain electronic copies of this document and the January 5, 1999 proposed rule from the EPA internet Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents." You can also go directly to the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this document, including the public version, has been established under docket control number OPPTS-400132, (including the references in Unit III. of this preamble and comments and data submitted electronically as described below). This record includes not only the documents physically contained in the docket, but all of the documents included as references in those documents. A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460. The TSCA Nonconfidential Information Center telephone number is 202-260-7099.

#### *C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., "OPPTS-400132") in your correspondence.

1. *By mail.* Submit written comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Document Control Office in Rm. G-099, Waterside Mall, 401 M St., SW., Washington, DC, telephone: 202-260-7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: "oppt.ncic@epa.gov." Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS-400132. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

#### *D. How Should I Handle CBI Information That I Want to Submit to the Agency?*

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the person identified in the "FOR FURTHER INFORMATION CONTACT" section.

## **II. Additional Documentation and Clarification**

#### *A. What Document Is Being Made Available and What Does It Discuss?*

In the January 5, 1999 proposed rule to lower the EPCRA section 313 reporting thresholds for certain PBT chemicals (64 FR 688), the preferred option (i.e., Option 2), as presented in the regulatory text, proposed the following EPCRA section 313 reporting thresholds: 10 pounds for certain highly persistent, bioaccumulative chemicals; 100 pounds for certain persistent, bioaccumulative chemicals; and 0.1 gram for dioxin and dioxin-like compounds. The potential small entity impacts of the preferred Option 2 are presented in the economic analysis of the proposed rule (Ref. 1). EPA has prepared an additional analysis of the potential small entity impacts of a regulatory option with lower EPCRA

section 313 reporting thresholds than those contained in Option 2. The document being made available today contains this analysis and is entitled "Analysis of Potential Small Entity Impacts Associated with Option 1 of the TRI PBT Proposal" (Ref. 2). This document is now available in the public docket for this rulemaking. Under Option 1, the EPCRA section 313 reporting thresholds would be 1 pound for certain highly persistent, bioaccumulative chemicals; 10 pounds for certain persistent, bioaccumulative chemicals; and 0.1 gram for dioxin and dioxin-like compounds. At these lower reporting thresholds, more facilities would be affected by the rule and more reports would be filed than at the Option 2 reporting thresholds. The following is a brief overview of EPA's findings.

1. *Overall methodology.* For the purpose of its analysis, EPA defined a small business using the small business size standards established by the Small Business Administration (SBA). EPA defined small governments using the Regulatory Flexibility Act definition of jurisdictions with a population of less than 50,000. No small organizations are expected to be affected.

Only those small entities that are expected to submit at least one report are considered to be affected for the purpose of the small entity analysis, although EPA recognizes that other small entities will conduct compliance determinations under lower thresholds. The number of affected entities will be smaller than the number of affected facilities, because many entities operate more than one facility. Impacts were calculated for both the first year of reporting and subsequent years. First year costs are typically higher than continuing costs because firms must familiarize themselves with the requirements. Once firms have become familiar with how the reporting requirements apply to their operations, costs fall. EPA believes that subsequent year impacts present the best measure to judge the impact on small entities because these continuing costs are more representative of the compliance costs that firms face.

EPA analyzed the potential cost impact of Option 1 on small businesses and governments for the manufacturing sector and in each of the recently added industry sectors. EPA then aggregated the analyses for the purpose of determining whether it would be able to certify that Option 1 would not, if promulgated, have a "significant economic impact on a substantial number of small entities." EPA believes that the statutory test for certifying a

rule and the statutory consequences of not certifying a rule all indicate that certification determinations may be based on an aggregated analysis of the rule's impact on all of the small entities subject to it.

2. *Small businesses.* EPA used annual compliance costs as a percentage of annual company sales to assess the potential impacts on small businesses of Option 1. EPA believes that this is a good measure of a firm's ability to afford the costs attributable to a regulatory requirement, because comparing compliance costs to revenues provides a reasonable indication of the magnitude of the regulatory burden relative to a commonly available measure of a company's business volume. Where regulatory costs represent a small fraction of a typical firm's revenue (for example, less than 1%, but not greater than 3%), EPA believes that the financial impacts of the regulation may be considered insignificant. As discussed above, EPA also believes that it is appropriate to apply this measure to subsequent year impacts.

Based on its estimates of additional reporting as a result of the proposed rule, the Agency estimates that 10,000 businesses would be affected by Option 1, and that approximately 6,900 of these businesses are classified as small based on the applicable SBA size standards. For the first reporting year, EPA estimates that approximately 30 small businesses would bear compliance costs between 1% and 3% of revenues, and that no small businesses would bear costs greater than 3%. In subsequent years, EPA estimates that approximately 7 small businesses would bear compliance costs between 1% and 3% of revenues, and that no small businesses would bear costs greater than 3%. As stated above, EPA believes that subsequent-year impacts are the appropriate measure of small business impacts.

3. *Small governments.* To assess the potential impacts of Option 1 on small governments, EPA used annual compliance costs as a percentage of annual government revenues to measure potential impacts. Similar to the methodology for small businesses, this measure was used because EPA believes it provides a reasonable indication of the magnitude of the regulatory burden relative to a government's ability to pay for the costs, and is based on readily available data.

EPA estimates that 49 publicly owned electric utility facilities, operated by a total of 39 municipalities, may be affected under Option 1. Of these municipalities, an estimated 18 are small governments (i.e., those with

populations under 50,000). It is estimated that 1 of these small governments would bear annual costs between 1% and 3% of annual government revenues in the first year. In subsequent years, EPA estimates that no small governments would bear compliance costs above 1% of revenues.

4. *All small entities.* As stated above, EPA believes that subsequent-year impacts are the appropriate measure of small entity impacts. After the first year of reporting, approximately 7 small businesses are expected to bear costs over 1% of revenues. This represents less than 1% of all affected small businesses. None of the affected small governments are estimated to bear costs greater than 1% of revenues after the first year of reporting. No small organizations are expected to be affected by the proposed rule. Thus, the total number of small entities with impacts above 1% of annual revenues in subsequent years does not change when the results are aggregated for all small entities (i.e., small businesses, small governments, and small organizations).

#### *B. What Clarifications Are Being Made to the Proposed Rule?*

In Unit X.B. of the January 5, 1999 proposed rule, EPA discussed a limitation for the reporting of vanadium and cobalt when contained in alloys. At the end of the first paragraph of Unit X.B. (second column, page 717), it was stated that "EPA is therefore proposing to limit the reporting for vanadium and cobalt to exclude alloys that contain these metals from the lower reporting thresholds." This statement is incorrect. EPA did not propose to lower the EPCRA section 313 reporting thresholds for vanadium. EPA only proposed to remove the fume or dust qualifier from the current vanadium listing and replace it with a qualifier that limits the reporting for vanadium by excluding the reporting of alloys that contain vanadium.

#### **III. What Are the References for this Action?**

The references associated with this action are as follows:

1. USEPA, OPPT. Economic Analysis of the Proposed Rule to Modify Reporting of Persistent Bioaccumulative Toxic Chemicals Under EPCRA Section 313. December 1998.

2. USEPA, OPPT. Analysis of Potential Small Entity Impacts Associated with Option 1 of the TRI PBT Proposal. January 1999.

#### **IV. Do Any of the Regulatory Assessment Requirements Apply to this Action?**

No. As indicated previously, this action merely announces the availability of additional data for public review, and provides minor clarification to provisions in the proposed rule. This action does not impose any new requirements. As such, this action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying proposed rule, is discussed in the preamble to the proposed rule (see 64 FR 688, January 5, 1999).

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

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

Dated: February 12, 1999.

**Susan H. Wayland,**

*Acting Assistant Administrator for  
Prevention, Pesticides and Toxic Substances.*

[FR Doc. 99-4323 Filed 2-22-99; 8:45 am]

BILLING CODE 6560-50-F

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[OPPTS-400135; FRL-6050-3]

RIN 2070-AC00

### Methyl Isobutyl Ketone; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection  
Agency (EPA).

ACTION: Denial of petition.

**SUMMARY:** EPA is denying a petition to remove methyl isobutyl ketone (MIBK) from the list of chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). EPA has reviewed the available data on this chemical and has determined that MIBK does not meet the deletion criterion of EPCRA section 313(d)(3). Specifically, EPA is denying this petition because EPA's review of the petition and available information resulted in the conclusion that MIBK meets the listing criteria of EPCRA section 313(d)(2)(B) due to its contribution to the formation of ozone in the environment which causes adverse human health and environmental effects.

**FOR FURTHER INFORMATION CONTACT:** Daniel R. Bushman, Petitions Coordinator, 202-260-3882 or e-mail: bushman.daniel@epa.gov, for specific information regarding this document or for further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information 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. General Information

##### A. Does This Notice Apply To Me?

This document does not make any changes to existing regulations, however you may be interested in this document if you manufacture, process, or

otherwise use MIBK. Potentially interested categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Interested Entities
Chemical manufacturers	Chemical manufacturers that manufacture MIBK, use MIBK as a chemical intermediate, or use MIBK in the manufacture of protective coatings such as nitrocellulose lacquers and solvent-based vinyl and acrylic coatings
Chemical processors and users	Facilities that use MIBK as a process solvent

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in this document. Other types of entities not listed in this table may also be interested in this document. Additional businesses that may be interested in this document are those covered under 40 CFR part 372, subpart B. If you have any questions regarding whether a particular entity is covered by this section of the CFR, consult the technical person listed in the "FOR FURTHER INFORMATION CONTACT" section.

##### B. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Home Page at <http://www.epa.gov/>. On the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register - Environmental Documents." You can also go directly to the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

2. *In person or by phone.* If you have any questions or need additional information about this action, please contact the technical person identified in the "FOR FURTHER INFORMATION CONTACT" section. In addition, the official record for this document, including the public version, has been established under docket control number OPPTS-400135, (including the references in Unit VII. of this preamble). This record includes not only the documents physically contained in the docket, but all of the documents included as references in those documents. A public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The

official record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

## II. Introduction

### A. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of EPCRA, 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99-499).

### B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in amounts above reporting threshold levels, to report their environmental releases of such chemicals annually. Such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the PPA of 1990, 42 U.S.C. 13106. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. MIBK was included on the initial list. Section 313(d) authorizes EPA to add or delete chemicals from the list and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPCRA section 313(d)(2) states that a chemical may be listed if any of the listing criteria are met. Therefore, in order to add a chemical, EPA must demonstrate that at least one criterion is met, but does not need to examine whether all other criteria are also met. Conversely, in order to remove a chemical from the list, EPCRA section 313(d)(3) requires EPA to find that none of the listing criteria are met.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compounds categories. EPA has also published in the **Federal Register** of November 30, 1994 (59 FR 61432) (FRL-4922-2) a statement clarifying its interpretation of