ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 302 and 355

[SW H–FRL–7594–4]

RIN 2050–AE12

Reportable Quantity Adjustments for Carbamates and Carbamate-Related Hazardous Waste Streams; Reportable Quantity Adjustment for Inorganic Chemical Manufacturing Processes Waste (K178)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA or ''the Agency'') is proposing reportable quantity (RQ) adjustments for 28 individual carbamates and five carbamate-related hazardous waste streams listed as hazardous wastes under the Resource Conservation and Recovery Act, and as hazardous substances with one-pound statutory RQs under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In addition, EPA is proposing to adjust the one-pound statutory RQ of another hazardous waste stream, K178, which is unrelated to the carbamates addressed in this rule.

EPA thoroughly evaluated the intrinsic properties of these substances to assess the possibility of harm from the release of each substance into the environment and to determine the appropriate levels that require release notification. The proposed RQ adjustments will relieve the regulated community and emergency response personnel from the burden of making and receiving reports of releases that are unlikely to pose a threat to public health or welfare or the environment.

DATES: To make sure we consider your comments on this proposed rule, they must be postmarked on or before February 2, 2004. Comments postmarked after this date will be marked ''late'' and may not be considered.

ADDRESSES: Comments submitted by regular U.S. Postal Service mail should be sent to: Docket Coordinator, Superfund Docket Office, Mail Code 5202T, U.S. Environmental Protection Agency Headquarters, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically, in person, or by special delivery. To ensure proper receipt by EPA, it is imperative that you identify the appropriate docket control number in the subject line on the first page of your comment. These docket control numbers, as well as detailed instructions on how to submit your comments, are provided in the section entitled ''How and to Whom Do I Submit Comments?'' in the supplemental information portion of this preamble.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA, Superfund, and EPCRA Hotline at 800/424–9346 or TDD 800/553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703/412–9810 or TDD 703/412–3323 (hearing impaired). For information on specific aspects of the rule, contact Lynn Beasley of the Office of Emergency and Remedial Response (5204G), U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Ms. Beasley's e-mail address is *beasley.lynn@epa.gov,* and her telephone number is 703/603–9086.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Potentially Regulated Entities

Type of entity	Examples of affected entities
Industry	Manufacturers, handlers, transporters, and other users of carbamates. These substances are often used as insecticides, fungicides, herbicides, accelerators in the vulcanization of rubber, or as chemical intermediates in the manufacture of drugs, pesticides, or resins. In addition, entities that may release K178 waste streams will also be affected.
State, Local, or Tribal Governments	State Emergency Response Commissions, and Local Emergency Planning Committees.
Federal Government	National Response Center, and any Federal agency that may release these carbamates and waste streams.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, or organization is regulated by this action, you should carefully examine the proposed changes to 40 CFR parts 302 and 355. 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 Copies of Support Documents for This Rule?

1. *Docket.* EPA has established an official public docket for the Carbamates and Carbamate-Related Hazardous Waste Streams (Docket ID No. SFUND–2002–0010) and an official public docket for the Inorganic Chemical Manufacturing Processes Waste (K178) (Docket ID No. SFUND–2002–0011). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center 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 Superfund Docket is (202) 566–0270. You may copy a maximum of 100 pages from any regulatory docket at no cost. Additional copies cost $0.15 per page. The Docket Office will mail copies of materials to you if you are located outside the Washington, DC metropolitan area.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to

access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket, visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. However, late comments may be considered if time permits.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. SFUND–2002–0010 for the Carbamates and Carbamate-Related Hazardous Waste Streams or Docket ID No. SFUND–2002–0011 for the Inorganic Chemical Manufacturing Processes Waste (K178). The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to *superfund.docket@epa.gov*, Attention Docket ID No. SFUND–2002–0010 for Carbamates and Carbamate-Related Hazardous Waste Streams or Docket ID No. SFUND–2002–0011 for Inorganic Chemical Manufacturing Processes Waste (K178). In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and two copies of your comments to: Superfund Docket, Environmental Protection Agency, Mailcode: [5202T], 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. SFUND–2002–0010 for Carbamates and Carbamate-Related Hazardous Waste Streams or Docket ID No. SFUND–2002–0011 for Inorganic Chemical Manufacturing Processes Waste (K178).

3. *By Hand Delivery or Courier.* Deliver your comments to: Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. SFUND–2002–0010 for Carbamates and Carbamate-Related Hazardous Waste Streams or Docket ID No. SFUND–2002–0011 for Inorganic Chemical Manufacturing Processes Waste (K178). Such deliveries are only accepted during the Docket's normal hours of operation as identified in Unit I.B.1.

4. *By Facsimile.* Fax your comments to: (202) 566–0272, Attention Docket ID. No. SFUND–2002–0010 for Carbamates and Carbamate-Related Hazardous Waste Streams or Docket ID No. SFUND–2002–0011 for Inorganic Chemical Manufacturing Processes Waste (K178).

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

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

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Outline of Today's Preamble

III. Preamble for Reportable Quantity Adjustments for Carbamates and Carbamate-Related Hazardous Waste Streams; Reportable Quantity Adjustment for Inorganic Chemical Manufacturing Processes Waste (K178)

A. Overview

1. Statutory Authority

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, gives the Federal government broad authority to respond to releases or threats of releases of hazardous substances from vessels and facilities. The term ''hazardous substance'' is defined in section 101(14) of CERCLA by referencing various Federal environmental statutes. For example, the term includes ''any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act * * *,'' also known as the Resource Conservation and Recovery Act (RCRA).

Section 102(b) of CERCLA establishes reportable quantities (RQs) of one pound (''statutory RQs'') for releases of most CERCLA hazardous substances. Under section 102(a) of CERCLA, the Administrator of EPA has the authority to adjust these RQs by regulation (''adjusted RQs'').

Under CERCLA section 103(a), the person in charge of a vessel or facility from which a CERCLA hazardous substance has been released in a quantity that equals or exceeds its RQ must immediately notify the National Response Center (NRC) of the release. A release is reportable if an RQ or more is released within a 24-hour period (see 40 CFR 302.6). This reporting requirement serves as a trigger for informing the government of a release so that Federal personnel can evaluate the need for a Federal removal or remedial action and undertake any necessary action in a timely fashion.

In addition to the reporting requirements under CERCLA section 103, section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11001 *et seq.*, requires owners or operators of certain facilities to report releases of extremely hazardous substances (EHSs) and CERCLA hazardous substances to State and local authorities (see 40 CFR 355.40). After the release of a hazardous substance in a quantity equal to or greater than its RQ, facility owners or operators must immediately notify the community emergency coordinator for each local emergency planning committee for any area likely to be affected by the release, and the State emergency response commission of any State likely to be affected by the release.

2. Does This Proposed Rule Apply to Me?

The person in charge of a vessel or facility from which a CERCLA hazardous substance is released in a quantity that equals or exceeds its RQ must notify appropriate authorities who can evaluate whether a government response is needed. Therefore, this proposed rule may affect the following entities: (1) Persons in charge of vessels or facilities that may release CERCLA hazardous substances (as identified in this proposal) and owners or operators of facilities that may release EHSs or CERCLA hazardous substances (as identified in this proposal) into the environment; and (2) entities that plan for or respond to such releases.

3. What Types of Releases Are Exempt From the Reporting Requirements?

In determining whether you must report the release of a carbamate that equals or exceeds its RQ, it should be noted that section 103(e) of CERCLA exempts from the notification provisions of CERCLA section 103(a): ''* * * the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or * * * the handling and storage of such a pesticide product by an agricultural producer.'' The legislative history of CERCLA suggests that Congress intended this exemption to apply to the application of a pesticide generally in accordance with the pesticide's purpose.

In addition, if a release of a CERCLA hazardous substance meets the criteria under CERCLA section 103(e) for an exemption from reporting to the NRC, the same release is also exempt from reporting to State and local authorities under EPCRA section 304. In the context of today's proposed rule, EPA believes that the CERCLA section 103(e) reporting exemption provides a potential source of reporting relief under both CERCLA and EPCRA for certain releases of carbamate pesticides.

As EPA previously noted in an April 4, 1985 final rule (50 FR 13464), we do not consider the spill of a pesticide to be an application of the pesticide, nor do we consider a pesticide spill to be in accordance with the pesticide's purpose. Consequently, spills of a carbamate pesticide that equal or exceed an RQ must be reported to the NRC under CERCLA section 103 and to the

appropriate State and local authorities under EPCRA section 304.

B. Background

In today's notice of proposed rulemaking (NPRM), EPA is proposing to adjust the statutory one-pound RQs for 28 individual carbamates and five carbamate-related waste streams. Today's rulemaking includes proposed RQ adjustments not only for individual carbamates, but also for thiocarbamates, dithiocarbamates, carbamoyl oximes, and several other individual substances that are closely related to carbamate production and/or waste generation. For purposes of simplicity, however, the preamble to today's proposed rule refers to all 28 individual substances for which RQ adjustments are being proposed as ''carbamates,'' and to the five waste streams as ''carbamate-related'' waste streams. In addition, EPA is proposing to adjust the one-pound statutory RQ of another hazardous waste stream, K178, which is unrelated to the carbamates addressed in this rule (see Section III.C.8 of today's preamble for information regarding K178). A summary of the developments leading up to today's proposed rulemaking as it relates to the carbamate-related substances is provided below.

On November 8, 1984, Congress amended RCRA by enacting the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 *et seq.* In one provision of HSWA—a newly added RCRA section 3001(e)(2)—Congress directed EPA to determine whether several wastes, including wastes generated from the production of carbamates, should be listed as RCRA hazardous wastes. Carbamates are widely used as active ingredients in pesticides, herbicides, insecticides, and fungicides, and in the production of synthetic rubber. Before Congress enacted HSWA in 1984, EPA already had regulated several carbamate substances under RCRA, CERCLA, and other statutes.

Based on our evaluation of the carbamate production wastes, we published on March 1, 1994 (59 FR 9808), a proposal to list 80 carbamate-related substances as RCRA hazardous wastes and as CERCLA hazardous substances. These 80 substances included: (1) 70 individual carbamates; (2) six carbamate-related waste streams; and (3) four categories of carbamate substances. Subsequently, on February 9, 1995 (60 FR 7824), we finalized the listing of 64 of these 80 substances as RCRA hazardous wastes and CERCLA hazardous substances, deferring action on 12 individual substances and the four categories of carbamate substances included in the proposed rule. Thus, EPA listed a total of 58 individual carbamates and six carbamate-related hazardous waste streams as RCRA hazardous wastes and CERCLA hazardous substances in the February 9, 1995 final rule. We published corrections to minor errors in these listings in the **Federal Register** on April 17, 1995 (60 FR 19165) and May 12, 1995 (60 FR 25619). We also modified our interpretation of the rule as it affected listings for K156 and K157 hazardous wastes on August 14, 1995 (60 FR 41817).

On November 1, 1996, the Court of Appeals (D.C. Circuit) ruled that EPA failed to follow proper rulemaking procedures in making some of the carbamate listing determinations in the February 9, 1995 rule. *Dithiocarbamate Task Force* v. *EPA,* 98 F.3d 1394 (D.C.Cir. 1996). As a result, the court vacated the RCRA hazardous waste and CERCLA hazardous substance listings for 24 of the 58 individual carbamates and one of the six carbamate-related waste streams (K160) included in that rule. In addition, the court vacated three other carbamate-related waste streams (K156, K157, and K158) only to the extent that they applied to the chemical 3-iodo-2-propynyl n-butylcarbamate. Under the court decision, the vacated carbamate listings are to be treated as though they had never been in effect.

To clarify the legal status of the vacated listings for the regulated community and the public, EPA, in a June 17, 1997 final rule (62 FR 32974), amended the lists of RCRA hazardous wastes and CERCLA hazardous substances (in 40 CFR parts 261 and 302 respectively) to remove the entries for the 24 individual carbamates and one carbamate-related waste stream (K160) that were vacated by the court, as well as revised the entries for K156, K157, and K158 to indicate that they do not apply to 3-iodo-2-propynyl n-butylcarbamate.

It is important to note, however, that the court's ruling did not change the February 9, 1995 listing of the 34 remaining individual carbamates as RCRA hazardous wastes; those listings remain in effect. Independent of the February 9, 1995 rule, EPA already has added six of these 34 individual carbamates to the CERCLA list of hazardous substances in Table 302.4 of 40 CFR 302.4, and developed adjusted RQs for these substances because of their listing under the Clean Air Act or Clean Water Act.[1] The six substances and their Chemical Abstracts Service Registry Numbers (CASRNs) are: carbaryl (CASRN 63–25–2); carbofuran (CASRN 1563–66–2); mercaptodimethur (CASRN 2032–65–7); mexacarbate (CASRN 315–18–4); propoxur (CASRN 114–26–1); and triethylamine (CASRN 121–44–8).[2] Thus, we are not proposing any RQ adjustments for these six substances today.

Upon the effective date of the February 9, 1995 final rule, the 28 remaining individual carbamates and the five carbamate-related hazardous waste streams became hazardous substances under CERCLA section 101(14)(C) and received one-pound statutory RQs. We are proposing today to adjust the statutory one-pound RQs for these 28 substances and five waste streams based on criteria that relate to the possibility of harm from the release of each hazardous substance into the environment. EPA will revise the List of Hazardous Substances and Reportable Quantities (Table 302.4 of 40 CFR 302.4) to reflect these proposed changes and other, conforming proposed changes, if they are finalized. However, until such time as we finalize the adjusted RQs proposed in today's rule, the statutory RQ of one pound remains in effect for these substances.

Finally, eleven of the individual substances with proposed RQ adjustments in today's rule are also EPCRA section 302 EHSs. For the names of these 11 substances, see the proposed revisions to appendices A and B of 40 CFR part 355, included at the end of today's rule. In an August 30, 1989 rule (54 FR 35988), we proposed to adjust the RQs for all the EPCRA EHSs.[3] We finalized adjustments to the RQs for all the EHSs, except the 11 included in today's rule (61 FR 20473, May 7, 1996). We are reproposing adjusted RQs for these 11 substances today, for reporting under both CERCLA and EPCRA.

C. Summary of Today's Action

1. What Is the Scope of Today's Rule?

In today's rule, we are proposing to adjust the one-pound statutory RQs for 28 individual carbamates (one of which is adjusted to a final RQ of one-pound) and five carbamate-related waste streams. In addition, EPA is proposing to adjust the one-pound statutory RQ of another hazardous waste stream, K178, which is unrelated to the carbamates

[1] We adjusted the RQs for five of these six substances in an April 4, 1985 final rule (50 FR 13456), and adjusted the RQ for the other substance, propoxur, in a June 12, 1995 final rule (60 FR 30926).

[2] Although not a carbamate, triethylamine is used during the production of carbamates.

[3] We used the data from this August 30, 1989 proposed rulemaking, as well as more recent data, to support the RQ adjustments proposed for these 11 substances in today's rule.

addressed in this rule (see section III.C.8 of today's preamble for information regarding K178). We based these adjustments on specific scientific and technical criteria that relate to the possibility of harm from the release of a CERCLA hazardous substance in certain amounts. RQs are based, in part, on a determination of possible or potential harm, but they are not a determination that releases of a particular amount of a hazardous substance necessarily will harm the public health, welfare, or the environment. The quantity released is just one factor that the Federal government considers when it assesses the need to respond to such a release. Other factors include, but are not limited to, the location of the release, its proximity to drinking water supplies or other valuable resources, and the likelihood of exposure or injury to nearby populations. The RQ adjustments that EPA is proposing today would enable us to focus our resources on those releases that are most likely to pose potential threats to public health, welfare, or the environment. These RQ adjustments also would relieve the regulated community and emergency response personnel from the burden of making and receiving reports of releases that are unlikely to pose such threats.

2. What Methodology Is EPA Using To Adjust the RQs of the Individual Carbamates?

EPA has wide discretion in adjusting the statutory RQs for hazardous substances under CERCLA. Administrative feasibility and practicality are important considerations. Our methodology for adjusting the RQ of an individual hazardous substance begins with an evaluation of its intrinsic physical, chemical, and toxicological properties. These intrinsic properties—called ''primary criteria''—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity.[4]

Generally, for each intrinsic property, EPA ranks hazardous substances on a five-tier scale, associating a specific range of values on each scale with an RQ value of 1, 10, 100, 1,000, or 5,000 pounds. Each hazardous substance may receive several tentative RQ values based on the primary criteria. The lowest of the tentative RQs becomes the ''primary criteria RQ'' for that substance.

When we find sufficient data in the scientific literature on the chronic toxicity and/or potential carcinogenicity (two of the six primary criteria) of a substance, we generally evaluate and summarize these data in a chemical-specific profile. Following an extensive review of available scientific literature on the 28 individual carbamates addressed in today's proposed rule, we found that chronic toxicity profiles are warranted for nine of these 28 carbamates, and that potential carcinogenicity profiles are warranted for six of the 28 carbamates. EPA has placed these 15 draft chemical-specific profiles in the docket for this proposed rulemaking.[5] Proposed RQs for several of the substances included in today's rule are based, at least in part, on the conclusions drawn in these profiles.

We are soliciting comments on these drafts. We will consider data that you submit, including any additional toxicity or carcinogenicity data that may be available on these substances or the other carbamates included in today's proposed rule. If the data are applicable, we will incorporate them into the draft profiles prior to their completion.

After assigning the primary criteria RQs, we further evaluate the substances for their susceptibility to certain degradative processes. These natural degradative processes, which we use as ''secondary RQ adjustment criteria,'' are biodegradation, hydrolysis, and photolysis (BHP). If a hazardous substance, when released into the environment, degrades relatively rapidly to a less hazardous form by one or more of the BHP processes, we generally increase its RQ (as determined by the primary RQ adjustment criteria) by one level.[6] Conversely, if a hazardous substance degrades to a more hazardous product after its release, we assign an RQ equal to the RQ for the more hazardous substance, which may be one or more levels lower than the RQ for the original substance.

Three carbamates—bendiocarb, benomyl, and thiophanate-methyl—have BHP data that are a sufficient basis for adjusting the primary criteria RQs for these substances. Although several other carbamates (*e.g.*, propham) have BHP data that suggest rapid degradation, the evidence for most of these substances is not conclusive. Therefore, no adjustment to the RQs for these other carbamates was proposed on the basis of BHP.[7] EPA is requesting that commenters submit additional degradation data (*e.g.*, data on BOD_5 values and on half lives), if available, on these 28 individual substances.[8]

EPA could not locate acceptable data on any of the primary or secondary criteria for three of the 28 individual carbamates in today's proposed rule (see Table 1). In the past, when adjusting the statutory RQs of such data-poor hazardous substances, we have used data from chemically similar, surrogate substances.[9] Therefore, to adjust the statutory RQs of the three data-poor carbamates in today's rule, we conducted an analysis of other carbamates to identify potential surrogate substances (*i.e.*, carbamates with primary criteria data that are chemically similar, based primarily on structural analogy, to the data-poor substances).

Table 1 lists the chemically similar carbamates EPA used as proposed surrogates, and the proposed RQs we assigned to each data-poor substance based on its chemically similar

[4] For further information on assigning adjusted RQs to hazardous substances under the primary criteria, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 2, August 1986 (for chronic toxicity), Volume 3, July 1989 (for potential carcinogenicity), and Volume 1, March 1985 (for the four other primary criteria), available for inspection at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

[5] You may inspect the preliminary draft Reportable Quantity documents and potential carcinogenicity evaluations at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

[6] We do not raise an RQ level based on BHP if the primary criteria RQ is already at its highest possible level (100 pounds for potential carcinogens and 5,000 pounds for all other types of hazardous substances). The secondary adjustment criteria of BHP are not applied to radionuclides.

[7] To review a summary of the BHP data on the 28 carbamates included in today's rule, see Exhibit 4–3 of the Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102, Volume 8, available for inspection at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

[8] One or more of the following criteria must be met for a hazardous substance to qualify for further RQ adjustment based on BHP: (1) *Biodegradation:* the substance must have a five-day biochemical oxygen demand (BOD_5) that equals or exceeds 50 percent of the theoretical oxygen demand as calculated based on stoichiometric oxidation; and (2) *Hydrolysis/Photolysis:* the half-life of the substance in the environment must be five days or less. For further information on the methodology for applying BHP, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102, Volume 1, March 1985, available for inspection at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

[9] For further information on, and examples of, EPA's use of surrogate data to adjust RQs of hazardous substances, see section 2 of the Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102, Volume 8, available for inspection at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

surrogate.[10] We are requesting primary and secondary criteria data on these three data-poor substances. We also are soliciting comments from readers on our choice of surrogate substances used to adjust the RQs for these three carbamates.

TABLE 1.—PROPOSED RQS FOR THE DATA-POOR CARBAMATES

Data-poor carbamate	Proposed surrogate	Proposed RQ (pounds)
Bendiocarb phenol	Bendiocarb	1000
Carbofuran phenol	Carbofuran	10
Manganese dimethyldithiocarbamate	Ziram	10

Please note that in Table 2, below, we are assigning different RQs for the data-poor carbamate/surrogate pair of Bendiocarb phenol (data-poor carbamate) and Bendiocarb (its proposed surrogate) in shown in Table 1, above. In Table 2, EPA is applying the secondary criteria of BHP to adjust the RQ for bendiocarb to 100 pounds. However, due to structural differences between the two substances, we believe that it would be inappropriate to apply the BHP data for bendiocarb to bendiocarb phenol; hence, EPA is proposing a 1000-pound RQ for bendiocarb phenol (see Tables 1 and 2).

3. What RQs Are Proposed for the Individual Carbamates?

Table 2 lists the chemical names, CASRNs, and proposed RQs for the 28 individual carbamates included in today's proposed rule. The proposed RQs for 27 of the 28 individual carbamates would be raised from their one-pound statutory levels, while one of the 28 individual carbamates—Dimetilan—would be adjusted to its proposed, final RQ of one pound.

TABLE 2.—PROPOSED RQS FOR 28 INDIVIDUAL CARBAMATES

Chemical name	CASRN	Proposed RQ (pounds)
A2213	30558–43–1	5000
Aldicarb sulfone	1646–88–4	100
Barban	101–27–9	10
Bendiocarb	22781–23–3	100
Bendiocarb phenol	22961–82–6	1000
Benomyl	17804–35–2	10
Carbendazim	10605–21–7	10
Carbofuran phenol	1563–38–8	10
Carbosulfan	55285–14–8	1000
m-Cumenyl methylcarbamate	64–00–6	10
Diethylene glycol, dicarbamate	5952–26–1	5000
Dimetilan	644–64–4	1
Formetanate hydrochloride	23422–53–9	100
Formparanate	17702–57–7	100
Isolan	119–38–0	100
Manganese dimethyldithiocarbamate	15339–36–3	10
Metolcarb	1129–41–5	1000
Oxamyl	23135–22–0	100
Physostigmine salicylate	57–64–7	100
Physostigmine	57–47–6	100
Promecarb	2631–37–0	1000
Propham	122–42–9	1000
Prosulfocarb	52888–80–9	5000
Thiodicarb	59669–26–0	100
Thiophanate-methyl	23564–05–8	10
Tirpate	26419–73–8	100
Triallate	2303–17–5	100
Ziram	137–30–4	10

4. How is EPA Adjusting the RQs for the Carbamate-Related Waste Streams?

In addition to the 28 individual carbamate hazardous substances, we also are proposing to adjust the RQs of the five carbamate-related RCRA hazardous waste streams (K156, K157, K158, K159, and K161). The standard methodology used to adjust the RQs for RCRA hazardous waste streams differs from the methodology applied to individual hazardous substances. Our procedure for assigning RQs to RCRA waste streams is based on an analysis of the hazardous constituents of the waste

[10] These three data-poor carbamates also are included in the list of 28 individual carbamates that appears in Table 2. For further information on the three data-poor carbamates and the chemically-similar, surrogate substances that EPA has identified, see section 3 of the Technical Background Document to Support Rulemaking Pursuant to CERCLA section 102, Volume 8, available for inspection at the Superfund Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

streams. Specifically, EPA identifies the constituents of each RCRA hazardous waste stream in 40 CFR part 261, appendix VII. We determine the RQ for each constituent within the waste stream and establish the lowest RQ value of these constituents as the adjusted RQ for the waste stream. We also apply this same methodology to adjust the RQ for K178 (see section III.C.8 for more information).

5. What RQs Are Proposed for These Carbamate-Related Waste Streams?

In the February 9, 1995 final rule, the five carbamate-related waste streams were assigned the statutory one-pound RQ required by CERCLA section 102(b). In today's rule, using the standard methodology for adjusting RQs for RCRA waste streams, EPA is proposing a one-pound adjusted RQ for waste stream K161 and 10-pound adjusted RQs for the remaining four carbamate-related waste streams (K156, K157, K158, and K159) based on the constituent(s) with the lowest RQ within each of the waste streams. Table 3 lists the constituents and constituent RQs of each of the five carbamate-related hazardous waste streams.

TABLE 3.—CONSTITUENTS OF FIVE CARBAMATE-RELATED WASTE STREAMS

Carbamate Waste Stream Constituents	RQ (pounds)
K156	10
benomyl	10
carbaryl	100
carbendazim	10
carbofuran	10
carbosulfan	1000
formaldehyde	100
methylene chloride	1000
triethylamine	5000
K157	10
carbon tetrachloride	10
formaldehyde	100
methyl chloride	100
methylene chloride	1000
pyridine	1000
triethylamine	5000
K158	10
benomyl	10
carbendazim	10
carbofuran	10
carbosulfan	1000
chloroform	10
methylene chloride	1000
K159	10
benzene	10
butylate	100
EPTC	1000
molinate	10
pebulate	100
vernolate	100
K161	1
antimony	5000
arsenic	1
metam sodium	10
ziram	10

6. What Conforming Changes Are Being Made to Table 302.4 and Its Appendix A?

EPA is proposing to modify the entries in Table 302.4 for the carbamates added by the February 9, 1995 final rule to the list of CERCLA hazardous substances. Specifically, we are proposing in today's rule to change the entries for the chemical names of the carbamates in the ''Hazardous Substance'' column in Table 302.4 to reflect more accurately the chemical names for these substances as they appear in the RCRA tables of hazardous wastes at 40 CFR 261.33(e) and (f).

For example, the February 9, 1995 final rule generally lists two names for each individual carbamate in Table 302.4—a chemical name and, in parentheses, a synonym. Thus, the February 9, 1995 final rule added one entry for each carbamate to the CERCLA list of hazardous substances. The same final rule alphabetically lists these two names as separate entries in the RCRA tables of hazardous wastes in 40 CFR 261.33.

Because each of the 28 individual carbamates included in today's rule has at least two separate entries in the RCRA tables of hazardous wastes, we are proposing to make the CERCLA table of hazardous substances consistent by listing the two (or more) synonymous names as separate entries in Table 302.4. Thus, amendatory instruction 3, which immediately precedes Table 302.4 in today's proposed rule, accounts for the addition of the chemical names and synonyms as separate entries in Table 302.4, and amendatory instruction 2 accounts for the removal of the previously listed names for these substances. We believe that proposing these changes to Table 302.4 is a positive step toward ensuring that chemical lists under RCRA and CERCLA are more consistent and that carbamate synonyms are easier to find in the table.

In addition, we are proposing conforming changes to entries in appendix A to Table 302.4 for the 28 carbamates added to the list of CERCLA hazardous substances by the February 9, 1995 final rule.

7. What Changes Are Being Made to 40 CFR Part 355?

Appendices A and B of 40 CFR part 355, which list EHSs and their threshold planning quantities (TPQs) under EPCRA, also list the RQs for EHSs. Eleven of the individual carbamates for which EPA is proposing adjusted RQs are EHSs, as well as CERCLA hazardous substances. EPA today is proposing to revise appendices A and B of 40 CFR part 355 to include these adjusted RQs. For the names of these 11 substances, see the proposed revisions to appendices A and B included at the end of today's proposed rule.

8. What RQ Is Proposed for the K178 Waste Stream? [11]

As noted in section III.C.4 of the preamble, the Agency's standard methodology for adjusting the RQs for RCRA waste streams is based on an analysis of the hazardous constituents of each waste, as identified in 40 CFR part 261, appendix VII. We determine an RQ for each constituent and establish the lowest RQ value of these constituents as the adjusted RQ for the waste stream. When there are hazardous constituents identified for a waste stream that are not individual CERCLA hazardous substances, EPA develops an RQ for these constituents in order to assign an appropriate RQ to the waste stream (see 48 FR 23565, May 25, 1983). In other words, we derive the RQ for an RCRA waste stream based on the lowest RQ of all of the hazardous constituents identified for that waste in appendix VII of 40 CFR part 261, regardless of whether the constituents are CERCLA hazardous substances.

On September 14, 2000, EPA published a proposed rule to list three waste streams from inorganic chemical manufacturing processes as RCRA hazardous wastes in 40 CFR 261.32 and as CERCLA hazardous substances in 40 CFR 302.4 (65 FR 55684). In that rule, we proposed to adjust the one-pound statutory RQ for two of the three waste streams, K176 and K177. For the third waste stream, K178 (nonwastewaters from the production of titanium dioxide by the chloride-ilmenite process), EPA identified two hazardous constituents. The two hazardous constituents identified in the proposed rule were: thallium, which is a CERCLA hazardous substance with a 1,000-pound RQ; and manganese, which does not appear on the CERCLA hazardous substance list in 40 CFR 302.4 and, therefore, has not been assigned an RQ. Because EPA had

[11] HSWA also directed EPA to determine whether wastes from the Inorganic Chemical Industry should be listed as RCRA hazardous wastes.

not yet developed an RQ for manganese at that time, we did not propose to adjust the RQ for K178 in the September 14, 2000 proposed rule.

Numerous commenters to the proposed rule objected to using manganese as a basis for listing K178 wastes, citing potential adverse impacts to many industries. Although EPA continues to believe that manganese poses significant issues that ultimately should be resolved, the court-ordered schedule for the hazardous waste listings provided no flexibility to address those issues fully before finalizing the listings. For that reason, in the final rule, EPA deferred final action on adding manganese to appendix VII of 40 CFR part 261 as a basis for listing K178 wastes (66 FR 58258; November 20, 2001). The final hazardous waste listing for K178 is based solely on thallium. As a result, we are proposing an RQ of 1,000 pounds for the K178 waste stream, based on the constituent RQ for thallium, the sole hazardous constituent identified for the waste stream.

As stated in the section of the preamble entitled ''How and to Whom Do I Submit Comments?,'' it is important to identify docket control number SFUND–2002–0011 in the subject line on the first page of your correspondence if you are submitting comments on the proposed 1,000-pound RQ for K178.

D. Statutory and Regulatory Reviews

1. 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.

It has been determined that this proposed rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. EPA performed an economic analysis, which shows that this proposed rule will result in an annual cost savings of approximately $90,640 to the regulated community and to Federal, State, and local governments, and does not result in any of the other effects that define a significant regulatory action. In this proposed rule, EPA would raise the RQs for 27 of the 28 individual substances and five of the six waste streams (including K178) from their current statutory one-pound levels. The remaining individual carbamate substance and carbamate-related waste stream will remain subject to an RQ of one pound.

We have estimated that these adjustments from the statutory one-pound RQs will reduce by approximately 176 the number of reportable releases for these hazardous substances each year (see the economic analysis mentioned above). The estimated $90,640 cost savings reflects only those effects of the RQ adjustments that are readily quantifiable in dollars and are associated with the release notification requirements under CERCLA section 103 and EPCRA section 304, including the associated activities of recordkeeping and notification processing.

A detailed presentation of EPA's methodology, data sources, and computations applied for estimating the number of affected entities (industrial facilities) and economic impacts attributable to today's proposal is provided in the ''Economic Impact Analysis'' to this proposal.

2. 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.* Information Collection Request (ICR) documents have been prepared by EPA (ICR Nos. 1049.09 and 1395.04). A copy of these ICRs may be obtained from Susan Ambry by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or by calling (202) 566–1676, and by e-mail at *ambry.susan@epamail.epa.gov.* A copy also may be downloaded off the Internet at *http://www.epa.gov/icr.*

EPA proposes the following conditions for reporting and recordkeeping: mandatory reporting requirements (CERCLA section 103(a) and EPCRA section 304) serve as triggers for informing the government of a release so that Federal, State, or local personnel can evaluate the need for removal or remedial actions, and undertake any necessary action in a timely fashion.

We estimate that the public reporting burden for collecting information required under CERCLA section 103 averages 4.1 labor hours (*i.e.,* combined managerial, technical, and clerical hours) per response; the reporting burden under EPCRA section 304 averages approximately 5 labor hours per response. This estimate includes the time required to: make a determination whether a release requires a report to the NRC, the State, and local agencies; make the call(s); maintain a log of any calls made to government organizations; and make a follow-up written notification (if required under EPCRA section 304). The average burden estimates of 4.1 and 5 hours are provided only for the purpose of calculating the labor costs associated with the entire release reporting and recordkeeping process under CERCLA and EPCRA. Thus, these burden estimates should not be misinterpreted as reflecting the amount of time an individual has before he or she must call the NRC. Rather, CERCLA and EPCRA require that persons in charge of vessels or facilities immediately notify the NRC, the State, and local agencies of releases that equal or exceed an RQ.

Because we are proposing to raise the RQs for all but two of the substances included in today's rule, we expect the net reporting and recordkeeping burden associated with reporting releases of these substances under CERCLA section 103 to decrease. As noted in the economic impact analysis supporting today's proposed rule (and in Section III.D.2 of this preamble), we estimate that the annual reporting and recordkeeping burdens associated with reports to the NRC will be reduced by approximately 720 hours, and to SERCs and LEPCs by 880 hours.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of

1996 (SBREFA), 5 U.S.C. 601 *et. seq.,* 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 1000 or 100 employees per firm depending upon the SIC code the firm primarily is classified; (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.

After considering the economic impacts of today's proposed rule on small entities, I hereby certify that this proposal will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule. For more information regarding the economic impact of this proposed rule, please refer to the economic background document to this proposal.

We have therefore concluded that today's proposed rule will relieve regulatory burden for small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

4. 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 must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA 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 to have meaningful and timely input in the development of regulatory proposals, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any one year. This is because this proposed rule imposes no enforceable duty on any State, local, or tribal governments. EPA also has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. Therefore, today's proposed rule is not subject to the requirements of sections 202 and 205 of UMRA.

5. 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 proposal 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. This rule directly affects manufacturers, handlers, transporters, and other users of carbamates; in addition, entities that may release K178 waste streams will also be affected. There are no State and local government bodies that incur direct compliance costs by this rulemaking. State and local government implementation expenditures are expected to be less than $500,000 in any one year. Thus, the requirements of section 6 of the Executive Order do not apply to this proposal.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

6. 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 9, 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.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. Today's rule does not significantly or uniquely affect the communities of Indian tribal governments, nor would it impose substantial direct compliance costs on them. Thus, Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Risks and Safety Risks

The Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) is ''economically significant'' as

defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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 potentially effective and reasonably feasible alternatives considered by the Agency.

This proposal is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this proposed rule present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This proposed 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. This proposed rule reduces regulatory burden. It thus should not adversely affect energy supply, distribution, or use.

9. National Technology Transfer and Advancement Act of 1995

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 us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

40 CFR Part 355

Air pollution control, Chemicals, Hazardous substances, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 25, 2003.

Michael O. Leavitt,

Administrator.

For the reasons set out in the preamble, it is proposed to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, 9604; 33 U.S.C. 1321 and 1361.

2. Table 302.4 in § 302.4 is amended by removing the entries for ''1,3-Benzodioxol-4-ol, 2,2-dimethyl-, (Bendiocarb phenol)'', ''1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate (Bendiocarb)'', ''7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-(Carbofuran phenol)'', ''Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3b]indol-5-yl methylcarbamate ester (1:1) (Physostigmine salicylate)'', ''Carbamic acid, 1H-benzimidazol-2-yl, methyl ester (Carbendazim)'', ''Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl, methyl ester (Benomyl)'', ''Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester (Barban)'', ''Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7benzofuranyl ester (Carbosulfan)'', ''Carbamic acid, dimethyl-,1[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester (Dimetilan)'', ''Carbamic acid, dimethyl-, 3-methyl-1-(1methylethyl)-1H-pyrazol-5-yl ester (Isolan)'', ''Carbamic acid, methyl-, 3-methylphenyl ester (Metolcarb)'', ''Carbamic acid, [1,2 phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester (Thiophanate-methyl)'', ''Carbamic acid, phenyl-, 1-methylethyl ester (Propham)'', ''Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester (Triallate)'', ''Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester (Prosulfocarb)'', ''1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)carbonyl]oxime (Tirpate)'', ''Ethanimidothioci acid, 2-(dimethylamino-N-hydroxy-2-oxo-, methyl ester (A2213)'', ''Ethanimidothoic acid, 2-(dimethylamino)-N-[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester (Oxamyl)'', ''Ethanimidothioic acid, N,N'-[thiobis[(methylimino) carbonyloxy]]bis-, dimethyl ester (Thiodicarb)'', ''Ethanol, 2,2'oxybis-, dicarbamate (Diethylene glycol, dicarbamate)'', ''Manganese, bis(dimethylcarbamodithioato-S,S')-(Manganese dimethyldithiocarbamate)'', ''Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride (Formetanate hydrochloride)'', ''Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-(Formparanate)'', ''Phenol, 3-(l-methylethyl)-, methyl carbamate (m-Cumenyl methylcarbamate)'', ''Phenol, 3-methyl-5-(l-methylethyl)-, methyl carbamate (Promecarb)'', ''Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino)carbonyl] oxime (Aldicarb sulfone)'', ''Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-(Physostigmine)'', ''Zinc, bis(dimethylcarbamodithioato-S,S')-(Ziram)'', ''K156'', ''K157'', ''K158'', ''K159'', ''K161'', and ''K178'', and adding the following new entries in alphabetical order to read as follows (applicable footnotes have been republished without change):

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Statutory code†	RCRA waste number	Final RQ pounds (Kg)
A2213	30558431	4	U394	5000 (2270)
* * * * *		*		
Aldicarb sulfone	1646884	4	P203	100 (45.4)
* * * * *		*		
Barban	101279	4	U280	10 (4.54)
* * * * *		*		
Bendiocarb	22781233	4	U278	100 (45.4)
Bendiocarb phenol	22961826	4	U364	1000 (454)
Benomyl	17804352	4	U271	10 (4.54)
* * * * *		*		
1,3-Benzodioxol-4-ol, 2,2-dimethyl-	22961826	4	U364	1000 (454)
1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate	22781233	4	U278	100 (45.4)
* * * * *		*		
7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-	1563388	4	U367	10 (4.54)
* * * * *		*		
Benzoic acid, 2-hydroxy-, compd. with (3aS–cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)	57647	4	P188	100 (45.4)
* * * * *		*		
Carbamic acid, 1H-benzimidazol-2-yl, methyl ester	10605217	4	U372	10 (4.54)
Carbamic acid, [1-[(butylamino)carbonyl]-1H–benzimidazol-2-yl]-,methyl ester	17804352	4	U271	10 (4.54)
Carbamic acid, (3-chlorophenyl)-, 4-chloro-2–butynyl ester	101279	4	U280	10 (4.54)
Carbamic acid, [(dibutylamino)-thio]methyl-,2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester	55285148	4	P189	1000 (454)
Carbamic acid, dimethyl-,1-[(dimethyl-amino)carbonyl]-5-methyl-1H- pyrazol-3-yl ester	644644	4	P191	1 (0.454)
Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester	119380	4	P192	100 (45.4)
* * * * *		*		
Carbamic acid, methyl-, 3-methylphenyl ester	1129415	4	P190	1000 (454)
* * * * *		*		
Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester	23564058	4	U409	10 (4.54)
Carbamic acid, phenyl-, 1-methylethyl ester	122429	4	U373	1000 (454)
* * * * *		*		
Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester	2303175	4	U389	100 (45.4)
Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester	52888809	4	U387	5000 (2270)
Carbendazim	10605217	4	U372	10 (4.54)
Carbofuran phenol	1563388	4	U367	10 (4.54)
* * * * *		*		
Carbosulfan	55285148	4	P189	1000 (454)
* * * * *		*		
m-Cumenyl methylcarbamate	64006	4	P202	10 (4.54)
* * * * *		*		
Diethylene glycol, dicarbamate	5952261	4	U395	5000 (2270)
* * * * *		*		
Dimetilan	644644	4	P191	1 (0.454)
* * * * *		*		
1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime	26419738	4	P185	100 (45.4)
* * * * *		*		
Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester	30558431	4	U394	5000 (2270)
Ethanimidothioic acid, 2-(dimethylamino)-N-[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester	23135220	4	P194	100 (45.4)
* * * * *		*		
Ethanimidothioic acid, N,N′-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester	59669260	4	U410	100 (45.4)
* * * * *		*		
Ethanol, 2,2′-oxybis-, dicarbamate	5952261	4	U395	5000 (2270)
* * * * *		*		
Formetanate hydrochloride	23422539	4	P198	100 (45.4)
* * * * *		*		
Formparanate	17702577	4	P197	100 (45.4)
* * * * *		*		
Isolan	119380	4	P192	100 (45.4)
* * * * *		*		
3-Isopropylphenyl N-methylcarbamate	64006	4	P202	10 (4.54)
* * * * *		*		
Manganese, bis(dimethylcarbamodithioato-S,S′)-	15339363	4	P196	10 (4.54)
* * * * *		*		
Manganese dimethyldithiocarbamate	15339363	4	P196	10 (4.54)
* * * * *		*		
Methanimidamide, N,N-dimethyl-N′-[3-[[(methylamino)-carbonyl]oxy]phenyl]-, monohydrochloride	23422539	4	P198	100 (45.4)
Methanimidamide, N,N-dimethyl-N′-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-	17702577	4	P197	100 (45.4)

TABLE 302.4.—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES—Continued

[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Statutory code†	RCRA waste number	Final RQ pounds (Kg)
* * * * *		*	*	
Metolcarb	1129415	4	P190	1000 (454)
* * * * *		*	*	
Oxamyl	23135220	4	P194	100 (45.4)
* * * * *		*	*	
Phenol, 3-(1-methylethyl)-, methyl carbamate	64006	4	P202	10 (4.54)
Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate	2631370	4	P201	1000 (454)
* * * * *		*	*	
Physostigmine	57476	4	P204	100 (45.4)
Physostigmine salicylate	57647	4	P188	100 (45.4)
* * * * *		*	*	
Promecarb	2631370	4	P201	1000 (454)
* * * * *		*	*	
Propanal, 2-methyl-2-(methyl-sulfonyl)-, O–[(methylamino)carbonyl] oxime	1646884	4	P203	100 (45.4)
* * * * *		*	*	
Propham	122429	4	U373	1000 (454)
* * * * *		*	*	
Prosulfocarb	52888809	4	U387	5000 (2270)
* * * * *		*	*	
Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-	57476	4	P204	100 (45.4)
* * * * *		*	*	
Thiodicarb	59669260	4	U410	100 (45.4)
* * * * *		*	*	
Thiophanate-methyl	23564058	4	U409	10 (4.54)
* * * * *		*	*	
Tirpate	26419738	4	P185	100 (45.4)
* * * * *		*	*	
Triallate	2303175	4	U389	100 (45.4)
* * * * *		*	*	
Zinc, bis(dimethylcarbamodithioato-S,S′)-	137304	4	P205	10 (4.54)
* * * * *		*	*	
Ziram	137304	4	P205	10 (4.54)
* * * * *		*	*	
K156	.....	4	K156	10 (4.54)
Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)				
K157	.....	4	K157	10 (4.54)
Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.)				
K158	.....	4	K158	10 (4.54)
Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3- iodo-2-propynyl n- butylcarbamate.)				
K159	.....	4	K159	10 (4.54)
Organics from the treatment of thiocarbamate wastes.				
K161	.....	4	K161	1 (0.454)
Purification solids (including filtration, evaporation, and centrifugation solids), bag-house dust and floor sweepings from the production of dithiocarbamate acids and their salts. (This listing does not include K125 or K126.)				
* * * * *		*	*	
K178	.....	4	K178	1000 (454)
Nonwastewaters from the production of titanium dioxide by the chloride-ilmenite process. [This listing does not apply to chloride process waste solids from titanium tetrachloride production exempt under section 261.4(b)(7).].				

† Indicates the statutory source as defined by 1, 2, 3, and 4 below.

* * * * *

4- Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA section 3001.

1* Indicates that the 1-pound RQ is a CERCLA statutory RQ.

* * * * *

3. Appendix A to § 302.4 is amended by revising the following entries, to read as follows:

APPENDIX A TO § 302.4—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CASRN	Hazardous substance
*	* * * * * *
57476	Physostigmine. Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-.
57647	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1). Physostigmine salicylate.
*	* * * * * *
64006	m-Cumenyl methylcarbamate. 3-Isopropylphenyl N-methylcarbamate. Phenol, 3-(1-methylethyl)-, methyl carbamate.
*	* * * * * *
101279	Barban. Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester.
*	* * * * * *
119380	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester. Isolan.
*	* * * * * *
122429	Carbamic acid, phenyl-, 1-methylethyl ester. Propham.
*	* * * * * *
137304	Zinc, bis(dimethylcarbamodithioato-S,S′)-. Ziram.
*	* * * * * *
644644	Carbamic acid, dimethyl-,1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester. Dimetilan.
*	* * * * * *
1129415	Carbamic acid, methyl-, 3-methylphenyl ester. Metolcarb.
*	* * * * * *
1563388	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-. Carbofuran phenol.
*	* * * * * *
1646884	Aldicarb sulfone. Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime.
*	* * * * * *
2303175	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester. Triallate.
*	* * * * * *
2631370	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate. Promecarb.
*	* * * * * *
5952261	Ethanol, 2,2′-oxybis-, dicarbamate. Diethylene glycol, dicarbamate.
*	* * * * * *
10605217	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester. Carbendazim.
*	* * * * * *
15339363	Manganese, bis(dimethylcarbamodithioato-S,S′)-. Manganese dimethyldithiocarbamate.
*	* * * * * *
17702577	Formparanate. Methanimidamide, N,N-dimethyl-N′-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-.
17804352	Benomyl. Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester.
*	* * * * * *
22781233	Bendiocarb. 1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate.
22961826	Bendiocarb phenol. 1,3-Benzodioxol-4-ol, 2,2-dimethyl-.
23135220	Ethanimidothioic acid, 2-(dimethylamino)-N- [[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester. Oxamyl.
23422539	Methanimidamide, N,N-dimethyl-N′-[3-[[(methylamino)-carbonyl]oxy]phenyl]-, monohydrochloride. Formetanate hydrochloride.
23564058	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester. Thiophanate-methyl.
*	* * * * * *
26419738	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime. Tirpate.

APPENDIX A TO § 302.4—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
*	* * * * * * *
30558431	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester. A2213.
*	* * * * * * *
52888809	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester. Prosulfocarb.
*	* * * * * * *
55285148	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester. Carbosulfan.
*	* * * * * * *
59669260	Ethanimidothioic acid, N,N′-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester. Thiodicarb.
*	* * * * * * *

PART 355—EMERGENCY PLANNING AND NOTIFICATION

1. The authority citation for part 355 continues to read as follows:

Authority: 42 U.S.C. 11002, 11004, and 11048.

2. Appendices A and B in part 355 are amended by revising the following entries, to read as follows (footnotes ''*'' and ''h'' have been republished without change):

APPENDIX A TO PART 355—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[Alphabetical Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)
*	* * * * *		*	
26419–73–8	Carbamic Acid, Methyl-, O-(((2,4–Dimethyl-1, 3-Dithiolan-2-yl)Methylene)Amino)-.		100	100/10,000
*	* * * * *		*	
644–64–4	Dimetilan		1	500/10,000
*	* * * * *		*	
23422–53–9	Formetanate Hydrochloride	(h)	100	500/10,000
*	* * * * *		*	
17702–57–7	Formparanate		100	100/10,000
*	* * * * *		*	
119–38–0	Isopropylmethyl-pyrazolyl Dimethylcarbamate		100	500
*	* * * * *		*	
1129–41–5	Metolcarb		1,000	100/10,000
*	* * * * *		*	
23135–22–0	Oxamyl		100	100/10,000
*	* * * * *		*	
64–00–6	Phenol, 3-(1–Methylethyl)-, Methylcarbamate		10	500/10,000
*	* * * * *		*	
57–47–6	Physostigmine		100	100/10,000
57–64–7	Physostigmine, Salicylate (1:1)		100	100/10,000
*	* * * * *		*	
2631–37–0	Promecarb	(h)	1,000	500/10,000
*	* * * * *		*	*

*Only the statutory or final RQ is shown. For more information, see 40 CFR Table 302.4.

Notes:

* * * * * * *

hRevised TPQ based on new or re-evaluated toxicity data.

* * * * * * *

APPENDIX B TO PART 355—THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES AND THEIR THRESHOLD PLANNING QUANTITIES

[CAS Number Order]

CAS No.	Chemical name	Notes	Reportable quantity* (pounds)	Threshold planning quantity (pounds)**
*	* * * * *	*		*
57–47–6	Physostigmine		100	100/10,000
*	* * * * *	*		*
57–64–7	Physostigmine, Salicylate (1:1)		100	100/10,000
*	* * * * *	*		*
64–00–6	Phenol, 3-(1-Methylethyl)-, Methylcarbamate		10	500/10,000
*	* * * * *	*		*
119–38–0	Isopropylmethyl-pyrazolyl Dimethylcarbamate		100	500
*	* * * * *	*		*
644–64–4	Dimetilan		1	500/10,000
*	* * * * *	*		*
1129–41–5	Metolcarb		1,000	100/10,000
*	* * * * *	*		*
2631–37–0	Promecarb	(h)	1,000	500/10,000
*	* * * * *	*		*
17702–57–7	Formparanate		100	100/10,000
*	* * * * *	*		*
23135–22–0	Oxamyl		100	100/10,000
23422–53–9	Formetanate Hydrochloride	(h)	100	500/10,000
*	* * * * *	*		*
26419–73–8	Carbamic Acid, Methyl-, O-(((2,4-Dimethyl-1, 3- Dithiolan-2- yl)Methylene)Amino)-		100	100/10,000
*	* * * * *	*		*

*Only the statutory or final RQ is shown. For more information, see 40 CFR Table 302.4.

* * * * * * *

[h] Revised TPQ based on new or re-evaluated toxicity data.

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[FR Doc. 03–30166 Filed 12–3–03; 8:45 am]

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