published in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562–9121 or Melissa Krenzel at (404) 562–9196.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: February 11, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 05–4336 Filed 3–4–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[TRI–2002–0001; FRL–6724–9]

RIN 2025–AA12

Dioxin and Dioxin-Like Compounds; Toxic Equivalency Reporting; Community Right-To-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), EPA is proposing revisions to the reporting requirements for the dioxin and dioxin-like compounds category. Toxic equivalents (TEQs) are a weighted quantity measure based on the toxicity of each member of the dioxin and dioxin-like compounds category relative to the most toxic members of the category, *i.e.*, 2,3,7,8-tetrachlorodibenzo-p-dioxin and 1,2,3,7,8-pentachlorodibenzo-p-dioxin. Under EPCRA section 313, EPA currently requires that facilities report dioxin and dioxin-like compounds in units of total grams for the entire category, and provide a single distribution of the individual dioxin and dioxin-like compounds at the facility. This distribution must represent either total releases, or releases to the media (air, land, water) for which the facility has the best information. The three options discussed in this proposed rule would require reporting (on a new TRI Form R–D) of available information on all relevant portions of the form (*e.g.*, for each waste stream). One option would require the additional reporting of TEQs only. The two preferred options would require reporting of the mass quantity of each individual member of the category and differ primarily in whether the Agency or the facility would perform TEQ computations. Under each of these options, this new information would be in addition to the total grams data currently reported for the entire category and would replace the current reporting of a single distribution of the members of the category. EPA is proposing these revisions in response to requests from members of the public that EPA provide facilities with a method of reporting TEQ data. Comment is specifically sought on all options as well as EPA's preferences for implementing TEQ reporting.

DATES: Comments, identified by the Docket ID No. TRI–2002–0001, must be received by EPA on or before May 6, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. TRI–2002–0001, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Agency Web Site: http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- *E-mail: oei.docket@epa.gov*.
- *Mail:* Office of Environmental Information (OEI) Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. TRI–2002–0001. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington, DC 20503.
- *Hand Delivery:* EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, 20004, telephone: 202–566–1744, Attention Docket ID No. TRI–2002–0001. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. TRI–2002–0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: EPA has established an official public docket for this action under Docket ID No. TRI–2002–0001. The public docket includes information considered by EPA in developing this proposed rule, including the documents listed below, which are electronically or physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are electronically or physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not electronically or physically located in the docket, please consult the person listed in the following **FOR FURTHER INFORMATION CONTACT** section. All documents in the docket are listed in the EDOCKET index at: *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading

Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744, and the telephone number for the OEI Docket is 202–566–1752.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–0743; fax number: 202–566–0741; e-mail: *bushman.daniel@epamail.epa.gov,* for specific information on this proposed rule, or for more information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Toll free: 1–800–424–9346, in Virginia and Alaska: 703–412–9810 or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Proposed Rule Apply to Me?

You may be potentially affected by this proposed rule if you manufacture, process, or otherwise use dioxin and dioxin-like compounds. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially affected entities
Industry	SIC major group codes 10 (except 1011, 1081, and 1094); 12 (except 1241); or 20 through 39; or industry codes 4911 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4931 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce); or 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. section 6921 *et seq.*); or 5169; or 5171; or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis).
Federal Government	Federal facilities.

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 Should I Submit CBI to the Agency?

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

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

II. What Is EPA's Statutory Authority for Taking These Actions?

These actions are proposed under sections 313(g), 313(h), and 328 of EPCRA, 42 U.S.C. 11023(g), 11023(h) and 11048, and section 6607 of the Pollution Prevention Act (PPA), 42 U.S.C. 13106.

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using a listed toxic chemical in amounts above reporting threshold levels, to report their environmental releases of each chemical annually. 42 U.S.C. 11023(a). These reports must be filed by July 1 of each year for the previous calendar year. Facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of PPA.

Section 313(g) describes the information that must be submitted annually to EPA, pursuant to EPCRA section 313. Specifically, section 313(g) requires submission of the following information for each listed toxic chemical known to be present at the facility: ''(i) Whether the toxic chemical at the facility is manufactured, processed, or otherwise used, and the general category or categories of use of the chemical; (ii) An estimate of the maximum amounts (in ranges) of the toxic chemical present at the facility at any time during the preceding calendar year; (iii) For each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved by such methods for that wastestream; and (iv) The annual quantity of the toxic chemical entering each environmental medium.'' 42 U.S.C. 11023(g)(1).

Section 313(h) provides that the data collected under EPCRA section 313 are intended: to inform persons about the releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards, and for other similar purposes. 42 U.S.C. 11023(h). EPA has long recognized that subsection (h) of section 313 describes the purposes of EPCRA section 313, and has frequently

relied on this provision to guide its implementation. *See,* Conference Report at 299. ([Subsection (h)] ''describes the intended uses of the toxic chemical release forms required to be submitted by this section and expresses the purposes of this section.''); 62 FR 23834; 23835–836 (May 1, 1997); 64 FR 58666; 58667; 58687–692 (October 29, 1999).

Section 6607(a) of the PPA requires all facilities that report under EPCRA section 313 to also submit ''a toxic chemical source reduction and recycling report for the preceding calendar year.'' 42 U.S.C. 13106(a) Specifically, section 6607 (b) requires submission of the following information for each listed toxic chemical: (1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year, and the percentage change from the previous year, excluding any amount reported under paragraph 7; (2) the amount of the chemical recycled (at the facility or elsewhere) during the calendar year, the percentage change from the previous year, and the process of recycling used; (3) the source reduction practices used during the year; (4) the amount expected to be reported under paragraphs (1) and (2) for the 2 succeeding calendar years; (5) a ratio of production in the reporting year to production in the previous year; (6) the techniques used to identify source reduction opportunities; (7) the amount of any toxic chemical released into the environment by a catastrophic event, remedial action or other one-time event, and which is not associated with production processes during the reporting year; and (8) the amount of the chemical treated (at the facility or elsewhere) during the calendar year and the percentage change from the previous year.

Congress granted EPA broad rulemaking authority. EPCRA section 328 provides that the ''Administrator may prescribe such regulations as may be necessary to carry out this chapter'' (28 U.S.C. 11048).

III. What Are TEQs and Why Did EPA Develop This Proposal?

A. What Are TEQs and How Are They Calculated?

TEQs are a weighted quantity measure based on the toxicity of each member of the dioxin and dioxin-like compounds category relative to the most toxic members of the category, *i.e.*, 2,3,7,8-tetrachlorodibenzo-p-dioxin (commonly referred to as dioxin) and 1,2,3,7,8-pentachlorodibenzo-p-dioxin. In order to calculate a TEQ, a toxic equivalent factor (TEF) is assigned to each member of the dioxin and dioxin-like compounds category, TEFs that have been established through international agreements currently range from 1 to 0.0001. A TEQ is calculated by multiplying the actual grams weight of each dioxin and dioxin-like compound by its corresponding TEF and then summing the results. The number that results from this calculation is referred to as grams TEQ.

B. Why Did EPA Develop This Proposed Rule?

In response to a petition, EPA added the dioxin and dioxin-like compounds category to the EPCRA section 313 list of toxic chemicals in October of 1999 (64 FR 58666 and 58695–58704 (October 29, 1999)). That rulemaking required reporting in grams of the total dioxin releases. The rationale for selection of that reporting format was articulated in the **Federal Register** (64 FR 58700–58704) and is not the subject of this rulemaking. However, in the 1999 rulemaking, EPA also agreed that ''* * * being able to determine TEQs from the reported data and being able to determine which of the *individual chemicals* are include (sic) in a facilities report would make the data more useful to the public.'' (64 FR 58702—emphasis added).

A significant factor in the belief that TEQ reporting could add value was that the TEFs upon which the TEQ computations are based are an internationally agreed upon standard for characterizing the relative toxicity of dioxin and dioxin-like compounds and were a significant factor in specifying the listing of some of the dioxin congeners (64 FR 58696). Therefore, EPA added a section to the Toxics Release Inventory (TRI) reporting Form R that required the reporting facility to provide a single distribution of the dioxin and dioxin-like compounds for one of the total quantities that the facility is reporting to enable interested members of the public to compute a general (not waste stream specific) TEQ for the facility's releases. Reporting of complete distributions for all waste streams was not required primarily due to a concern about reporting burden.

Under the current rule, if a facility has information on the distribution of the dioxin and dioxin-like compounds, it is required to report either the distribution that best represents the distribution of the total quantity of dioxin and dioxin-like compounds released to all media from the facility; or its one best media-specific distribution. As with all other reporting under EPCRA section 313, this information is only required if it is available from the data used to calculate thresholds, releases, and other waste management quantities, or if the facility has information that can be used to make a reasonable estimate. No additional testing or monitoring is required.

Since promulgation of the final rule, EPA has continued to receive feedback from the regulated community on the question of how to report under EPCRA section 313 for dioxin and dioxin-like compounds. For example, certain industry groups have recently requested that EPA require TEQ reporting for the dioxin and dioxin-like compounds category on an individual waste stream basis in addition to the current requirement to report total grams for the category. These groups believe the addition of information on TEQs for individual waste streams will enhance the value of dioxin release information without detracting from that already being provided. In addition, several industry trade associations including the American Chemistry Council, American Forest & Paper Association, American Portland Cement Alliance, Edison Electric Institute, and The Aluminum Association, have written to the Office of Management and Budget in support of the addition of TEQ reporting to the current EPCRA section 313 reporting requirements (Ref. 1). As was recognized at the time of the 1999 rulemaking, neither total mass nor TEQ reporting ''* * * provide all of the data that the commenters would like to have reported and that being able to determine TEQs would provide additional useful information.'' (64 FR 58702). Having so agreed, however, the Agency continues to have concerns about the burden which could be associated with waste stream specific reporting of dioxin releases and TEQ. In this proposed rule, EPA is soliciting comment on this burden for reporters if they were required to provide waste stream specific information on individual dioxins and dioxin-like compounds. The Agency is also seeking comment through this proposed rule on three potential approaches for implementing reporting changes which would make it feasible for the public to assess individual releases on both a gram and TEQ basis.

The Agency sees merit in this dual reporting for all of the reasons articulated in the 1999 rulemaking. Not only will the addition of TEQ reporting allow further understanding of the releases and waste management quantities currently reported to the TRI for dioxin and dioxin-like compounds, it will also make it easier to compare TRI data on dioxin and dioxin-like

compounds with other EPA activities which primarily present data for dioxin and dioxin-like compounds in terms of TEQs. Therefore, EPA has developed this proposed rule to solicit comments on potential approaches for ensuring the availability of TEQ based information in EPCRA section 313 reporting for the dioxin and dioxin-like compounds category.

IV. What Additional Data Is EPA Proposing To Collect and How Will It Be Collected?

There are three ways to accomplish the addition of TEQ information on individual waste streams to that data which is currently available under the TRI. In addition to the current reporting of the total grams of the dioxin and dioxin-like compounds category, one could also collect either TEQ data for the dioxin and dioxin-like compounds category as a whole, the total grams for the individual members of the dioxin and dioxin-like compounds category, or both, for each individual waste stream for which such data are available. Individual grams of each member of the category, combined with published TEFs, can be used either by the reporting facility or by EPA to calculate and report TEQ data for individual waste streams.

EPA is requesting comment on three options for collecting this information and providing it to the public. Under option 1, EPA would require that, in addition to reporting the total grams of the dioxin and dioxin-like compounds category, if a facility has information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds, the facility must report the TEQ calculated from that distribution for the category. However, Option 1 is not an EPA preferred option because it does not address a major concern with the collection of TEQ data in the absence of individual grams data for each member of the category. The concern is that if TEFs change, as they have in the past, EPA will not be able to track TEQs consistently over time, because it will not have the underlying data necessary to recalculate prior year TEQ data using the new TEF values, or to otherwise compare TEQ data generated using different TEF values. The retention of outdated TEQ data in the publicly available TRI database could also cause additional confusion for users of the data.

Discussed below are the two preferred options (options 2 and 3) that EPA is considering for collecting this information. While EPA is considering all three options and specifically requests comments on which option would best meet the goal of providing useful TEQ data while limiting the additional reporting burden, EPA currently favors option 3 below, because it has the lowest burden and provides the most reliable information. (The regulatory text proposed in this notice, however, is based on option 2, because it incorporates both of the other two options, by requiring facilities to report individual grams data for each member of the category and to calculate and report TEQ values.)

A. Option 2: Facilities Report Both Grams Data and TEQ Data

Under this option, EPA is proposing that, in addition to reporting the total grams of the dioxin and dioxin-like compounds category, if a facility has information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds, the facility must report (1) the total grams for each member of the category; and (2) the TEQ calculated from that distribution for the category. The TEQ data would be calculated using the most recent TEF values (see Unit V.). As with all other reporting under EPCRA section 313, facilities should use readily available data collected pursuant to other provisions of law to calculate this information, or where such data are not readily available, must make reasonable estimates of the amounts involved. See 42 U.S.C. 11042 (g)(2). Facilities are not required to conduct any testing or monitoring in order to submit this information. See 42 U.S.C. 11042 (g)(2). As EPA has previously stated, when reporting for the dioxin and dioxin-like compounds category, facilities should report their releases and other waste management quantities at a level of precision supported by the accuracy of the underlying data and the estimation techniques on which the estimate is based (64 FR 58734, October 29, 1999).

Under any of the three options presented in this notice, the additional distribution data and TEQ data would be reported for the data elements in sections 5 (Quantity of the Toxic Chemical Entering Each Environmental Medium Onsite), 6 (Transfers of the Toxic Chemical in Wastes to Off-Site Locations), and 8 (Source Reduction and Recycling Activities; limited to the current year only data) of the current Form R. EPA intends to create a new form, called the Form R–D, that facilities will use instead of the Form R to report for the dioxin and dioxin-like compounds category, regardless of whether they can provide any of the additional data described in this proposal. The new form would include all of the data currently collected on the existing Form R (except for the information described in Unit VI), and would provide for the collection of the additional data for each waste stream required by the final rule (*i.e.*, mass distribution data for each member of the dioxin and dioxin-like compounds category under Option 3, the TEQs reported under Option 1, or both individual compound mass and TEQ data under Option 2). To help commenters understand precisely the additional information that EPA is proposing to collect, EPA has placed a draft copy of the Form R–D in the docket. However, the Agency is not proposing to codify this form, per se, and commenters will have the opportunity to comment on the form itself as part of OMB's Information Collection Request (ICR) clearance process (see Unit IX.B.).

EPA considered providing a supplemental form for reporting the additional grams and TEQ data, but determined that having only one form for all facilities to report for dioxin and dioxin-like compounds would greatly reduce the confusion that would result if two separate forms were required to be filled out. EPA also intends to incorporate the new Form R–D into the EPA-provided TRI-Made Easy (TRI–ME) electronic reporting software and to automate the calculation of the TEQ data so that facilities that report the gram quantities for the individual members of the category and use EPA's electronic reporting software will not have to calculate the TEQ value. Automation of the TEQ calculation is expected to both improve data quality and reduce reporting burden.

B. Option 3: Facilities Report Grams Data and EPA Calculates the TEQ Data

This option is the same as option 2 except that the only additional data facilities would need to provide is the individual grams data for each member of the dioxin and dioxin-like compounds category; facilities would not have to calculate and report the TEQ data. Under this option, EPA would generate the corresponding TEQ data from the individual grams data reported by the facility and include that TEQ data in the TRI database along with all the grams data reported by the facility. The TEQ data would be presented along with the facility-reported data and EPA would include TEQ data in all of EPA's publications that contain TRI data on dioxin and dioxin-like compounds. EPA would also include a TEQ calculator in TRI–ME so that facilities would still be able to check the TEQ calculations.

EPA believes that there are several benefits to this option. First, under this option facilities would not have the burden of tracking TEFs and calculating the TEQ data from the grams data; instead, this burden would be assumed by the Agency. Second, EPA would not have to incorporate the TEF values into the regulations, and therefore would not need to go through rulemaking in order to adopt any internationally accepted revisions (see Unit. V.). Third, if EPA does all the TEQ calculations electronically there should be fewer errors and improved data quality, both because there would be fewer opportunities for computational errors, and because there would be less potential for confusion about which were the applicable TEFs as these values change over time. Finally, if EPA calculates the TEQ data rather than having facilities report the data, EPA can recalculate the TEQ data for all of the reporting years once new TEF values are available. If facilities report the TEQ data themselves, EPA is concerned about its legal authority to alter these data if TEF values later change. Even though EPA and other users of the data could recalculate the TEQ data based on the individual grams data reported by the facilities, EPA might have to retain the original TEQ data reported by the facilities in the publicly available TRI database and this could cause additional confusion.

Because of the benefits discussed above, EPA believes that this option may be preferable to option 2. However, under this option the TEQ data would not come directly from the reporting facilities and, although EPA has every intention of providing the TEQ data, there would be no requirement for EPA to continue to provide TEQ data in the future. EPA requests comment on both options.

C. Electronic Reporting

EPA is also proposing to require that all Form R–D reports be filed electronically using EPA's TRI–ME electronic reporting software or other approved software. In order to capture the individual grams data for each member of the category the Form R–D will include many more data elements which will increase the possibility for errors when EPA has to transfer data to the TRI database from hard copy reports. EPA believes that it is very important that the additional data submitted on the Form R–D be accurately captured in the EPA database. Requiring all Form R–Ds to be submitted electronically will result in less preparation error and less processing errors than are associated with paper submissions. In addition, as EPA stated in a recent letter to TRI reporting facilities (see: *http://www.epa.gov/tri/TRI%20Re-Engineering%20Memo.pdf*), EPA has an ongoing effort to modernize and streamline the TRI program. One goal of the modernization effort is to process all reporting forms via the Internet utilizing EPA's Central Data Exchange (CDX). Requiring that all Form R–D reports be submitted electronically, which includes CDX or diskette, would be one small step toward the ultimate goal of full Internet reporting. EPA's preferred method of reporting is the use of TRI–ME and submitting through the Internet via CDX. CDX allows for a paperless filing, electronic signature, significant reduction of data errors, and instant confirmation of a facility's submission. For facilities wishing to submit through CDX, they must use the TRI–ME reporting software. EPA's other method of electronic filing is the use of diskette. Facilities should use TRI–ME, or other approved software, when submitting via a diskette.

EPA does not believe that there will be a significant increase in burden associated with requiring that all Form R–Ds be filed electronically (see Unit VII.). For example, in reporting year 2002 only 123 of the 1,277 reports filed for dioxin and dioxin-like compounds were submitted in hard copy thus over 90% of facilities that reported for dioxin and dioxin-like compounds filed electronically. Of the 123 hard copy submissions that were filed, 79 were prepared using EPA's TRI–ME electronic reporting software but were nevertheless submitted in hard copy. However, EPA requests comments on its proposal to have all Form R–D reports submitted electronically and whether EPA should create a waiver system that would allow facilities to file in hard copy. For example, EPA's Risk Management Plan program allows the submission of hard copies using a specific paper form and a paper submission cover form that explains why the facility is not filing electronically (see: *http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/RMPsubmission.htm*).

V. What TEF Values Does EPA Propose Be Used To Calculate the TEQ?

EPA is proposing to use the TEF scheme developed by the World Health Organization (WHO) in 1998 (Ref. 2) which is the most recent internationally agreed upon TEF scheme. The TEF values for the members of the dioxin and dioxin-like compounds category under the WHO 1998 scheme are assigned as follows (presented in the order of Chemical Abstracts Service (CAS) Number, chemical name, and TEF value): 67562–39–4, 1,2,3,4,6,7,8-heptachlorodibenzofuran, 0.01; 55673–89–7, 1,2,3,4,7,8,9-heptachlorodibenzofuran, 0.01; 35822–46–9, 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin, 0.01; 70648–26–9, 1,2,3,4,7,8-hexachlorodibenzofuran, 0.1; 57117–44–9, 1,2,3,6,7,8-hexachlorodibenzofuran, 0.1; 72918–21–9, 1,2,3,7,8,9-hexachlorodibenzofuran, 0.1; 60851–34–5, 2,3,4,6,7,8-hexachlorodibenzofuran, 0.1; 39227–28–6, 1,2,3,4,7,8-hexachlorodibenzo-p-dioxin, 0.1; 57653–85–7, 1,2,3,6,7,8-hexachlorodibenzo-p-dioxin, 0.1; 19408–74–3, 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin, 0.1; 39001–02–0, 1,2,3,4,6,7,8,9-octachlorodibenzofuran, 0.0001; 3268–87–9, 1,2,3,4,6,7,8,9-octachlorodibenzo-p-dioxin, 0.0001; 57117–41–6, 1,2,3,7,8-pentachlorodibenzofuran, 0.05; 57117–31–4, 2,3,4,7,8-pentachlorodibenzofuran, 0.5; 40321–76–4, 1,2,3,7,8-pentachlorodibenzo-p-dioxin, 1.0; 51207–31–9, 2,3,7,8-tetrachlorodibenzofuran, 0.1; 1746–01–6, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1.0.

EPA recognizes that over time, it may need to update the TEFs to reflect revisions adopted by the scientific community. For example, the WHO has initiated a project to review the current human and mammalian TEFs. The project will, as a first step, aim to update the database summarizing all published studies on the relative potency of dioxin and dioxin-like compounds. In a second step, an expert consultation will be held in the summer of 2005 to evaluate the need to update the human and mammalian TEF values as published in 1998. More information on this effort is available at *http://www.who.int/ipcs/assessment/tef_review/en/index.html.* Should the WHO revise its recommended TEFs, the Agency anticipates that it would revise the TEFs listed above to reflect the most recent scientific consensus. The TEF values would only be included in the final regulatory text if EPA finalizes one of the options (1 or 2) that requires industry to report TEQ data.

One possible advantage of options that require facilities to calculate and report the TEQ values is that, by including the TEFs in the regulations themselves, they would ensure an open, transparent process (*i.e.,* rulemaking) for changing the TEFs in response to new scientific information, including public notice and comment. However, even under the option where EPA calculates the TEQ values, the agency anticipates

that it would not change the TEFs used for TRI reporting without first explaining its rationale clearly to the public and providing opportunity for comment. EPA further anticipates that the TEFs used for TRI reporting would be kept consistent with those used across the agency for other programs, and that any change to the TEFs, whether through formal rule making or otherwise, would be done as part of a larger, agency-wide process.

VI. What Other Changes Is EPA Proposing To Make for the Reporting of Dioxin and Dioxin-Like Compounds?

Currently 40 CFR 372.85(b)(15)(ii) requires the reporting of a distribution of the chemicals included in the dioxin and dioxin-like compounds category. EPA requires the reporting of this distribution if the information is available from the data used to calculate thresholds, releases, and other waste management quantities for the dioxin and dioxin-like compounds category. However, since the new reporting form will provide for the reporting of the grams of the individual members of the category there would be no need to continue to collect the distribution data currently collected under section 1.4 of the Form R. Therefore, EPA is proposing to remove this reporting requirement and eliminate section 1.4 from the Form R.

VII. What Economic Considerations Are Associated With This Action?

EPA has evaluated the additional burden hours, cost, and potential benefits associated with the use of Form R–D instead of Form R for EPCRA section 313 reporting on the dioxin and dioxin-like compounds category. As part of this evaluation, EPA examined three options for obtaining more detailed information on dioxin and dioxin-like compounds on the Form R–D (Ref. 3). These options are (1) to require facilities to report the total grams TEQ of dioxin and dioxin-like compounds; (2) to require facilities to report the total grams TEQ of dioxin and dioxin-like compounds, as well as to report the mass in grams of each of the 17 individual members of the category; and (3) to require facilities to report the mass in grams of each of the 17 individual members of the category without reporting total grams TEQ. All three options entail changes to sections 5, 6, and 8 (current year only) of the existing Form R to create the Form R–D. In addition, EPA has estimated the additional cost of required electronic reporting for filing the Form R–D. This additional cost only applies to 89 facilities which filed a Form R for dioxin and dioxin-like compounds by submitting a paper form and did not use TRI–ME software to generate it. The total annual cost estimated for each option is the sum of the incremental cost for that option as described below and the additional cost of required electronic reporting for affected facilities.

In order to understand the incremental burden calculations below, it is important to first understand EPA's assumptions about the steps necessary to complete the current Form R for the dioxin and dioxin-like compounds category. EPA assumes that most reporting facilities already have data on the individual compounds that make up this category, since analytical tests generally report results for each compound. Facilities that rely on published emissions factors or other similar information will also often have data on the individual compounds, though in some cases published emissions factors may provide only a single value for the dioxin and dioxin-like compound category as a whole. However, in either case, facilities are required to use only the readily available data. EPA thus assumes that facilities either already have and are currently tracking data on the individual compounds contained in their waste streams (if this is the format of the underlying data on which their reporting is based), or that such data is not readily available, and will still not be readily available following promulgation of this rule. (EPA also recognizes the possibility that facilities may have a mix of data, with data for some waste streams including individual compounds and data for others including only total grams for the category as a whole.) As a result, EPA does not assume any additional burden for data tracking or for calculation of physical quantities of dioxin in individual waste streams. EPA requests comment on these assumptions.

Each option would entail some additional burden for each facility reporting for the dioxin and dioxin-like compounds category. In addition to the activities already conducted as part of the reporting process for Form R, a facility filing the Form R–D under Option 1 would also need to obtain the TEFs from the TRI reporting package for each of the 17 chemicals that comprise the category. Then the facility would multiply the grams released and/or transferred of each of the 17 chemicals in the category by the respective TEF to calculate that chemical's grams TEQ. Next the facility would sum the grams TEQ across the 17 chemicals to calculate the total grams TEQ released and/or transferred to be reported in sections 5, 6, and 8. For Option 2, the facility would also be required to report the mass in grams of each of the 17 chemicals that are subsequently multiplied by the TEFs in sections 5, 6, and 8 of Form R–D. Under Option 3, the facility would be required to report the mass in grams of each of the 17 chemicals in sections 5, 6, and 8 of Form R–D. The facility would not be required to obtain the TEF values or conduct additional multiplication and addition to calculate total grams TEQ. Under Option 3, it is envisioned that EPA would conduct the additional required calculations to derive total grams TEQ once the Form R–D is submitted.

For reporting year 2001, there were 1,315 facilities that filed Form Rs for the dioxin and dioxin-like compounds category (Ref. 3). Of these facilities, 70 percent (920 facilities) completed section 1.4 of the Form R containing distribution information on the members of the category. Since these 920 facilities indicated through their completion of section 1.4 that they have information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds category, EPA expects that these facilities are most likely to incur additional burden and cost associated with form completion and record keeping for Form R–D in the first and subsequent reporting years. All 1,315 facilities are expected to experience additional burden and cost associated with rule familiarization in the first year of implementation.

In previous Information Collection Requests, EPA has estimated that, after the first year of reporting, facilities filing Form R typically spend 4 hours on compliance determination, 47.1 hours on form completion, and 5 hours on record keeping and report submission (Ref. 4). Because the Form R–D would create new reporting requirements beyond those for the Form R, EPA expects that affected facilities would experience additional burden and cost. EPA's estimates for the additional burden associated with rule familiarization, form completion, and record keeping for the three options are shown in the following table (Ref. 3).

ESTIMATED ADDITIONAL BURDEN OF FORM R–D PER REPORTING FACILITY

[In minutes]

	Rule familiarization	Form completion	Recordkeeping	Total
First Year of Reporting				
Option 1	75	65	25	165
Option 2	75	85	25	185
Option 3	75	20	25	120
Subsequent Years of Reporting				
Option 1	0	65	25	90
Option 2	0	85	25	110
Option 3	0	20	25	45

Under all options, facilities would expend additional time in the first year to become familiar with the new reporting requirements associated with the Form R–D. Under all options, a major difference between burden in first and subsequent years is attributable to rule familiarization. Rule familiarization occurs in the first year of implementation but not in subsequent years.

All three Options require the same underlying level of recordkeeping. It is generally expected that facilities reporting any of the new information requested on Form R–D will be using information already in their possession. Form completion requirements differ between the three options, however. To understand the differences, it is important to know how TEQs are calculated for individual streams.

The basic computational steps for TEQ calculation are to take information on the quantities of the various compounds in each waste stream and multiply them by the TEFs to generate a value in total grams TEQ. Technical staff may employ any one of a number of methods to calculate grams TEQ ranging from hand calculations to the use of spreadsheets. These incremental burden estimates reflect an average burden associated with these different approaches. It is expected that some respondents will exceed the average estimated time of 45 minutes to complete these calculations. The Agency requests comment on whether its 45 minute estimate of TEQ calculation time is appropriate. Option 1 requires the facility to perform all calculations and provide the end result (*i.e.,* TEQ) on the Form R–D. Option 2 is expected to take approximately twenty minutes longer per facility than Option 1 because, although the same computation must be made, the facility must also record the intermediate values for the individual congener concentrations on the Form R–D. This twenty minutes arises from the time needed to record the mass in grams for each of the 17 chemicals in the category in sections 5, 6, and 8 of the Form R–D. This estimate assumes that the average facility will fill in three subsections within section 5, 6, and 8 (Ref. 3). Option 3 would require approximately 45 minutes less than Option 1 and 65 minutes less than Option 2 in both first and subsequent years because facilities would not be required to obtain the TEF values, or conduct any multiplication or addition to calculate total grams TEQ. Their only form completion effort will be the recording of the masses for the 17 chemicals on the Form R–D. EPA would perform the TEQ calculations and keep all records related to the TEFs. While an opportunity to comment on these time estimates will be provided with the proposal of the final ICR, EPA seeks comment on whether there are major gaps in these burden estimates.

Based on the number of facilities that filed reports on dioxin and dioxin-like compounds in 2001, the percentage that reported distribution information, and EPA's estimates of incremental burden, the total incremental burden of Option 1 would be 3,024 hours in the first reporting year and 1,380 hours in subsequent reporting years. The total incremental burden for Option 2 would be 3,327 hours in the first reporting year and 1,683 hours in subsequent reporting years. The total incremental burden for Option 3 would be 2,334 hours in the first reporting year and 690 hours in subsequent reporting years. Using these estimates and the average loaded hourly rates for managerial, technical, and clerical labor, the total incremental industry cost of Option 1 would be approximately $139,000 in the first reporting year and approximately $62,000 in subsequent reporting years. The total incremental industry cost for Option 2 would be approximately $154,000 in the first reporting year and approximately $76,000 in subsequent reporting years. The total incremental industry cost for Option 3 would be approximately $106,000 in the first reporting year and approximately $29,000 in subsequent reporting years. More detailed information on the derivation of these burden hour and cost estimates is available in the public docket for this action (Ref. 3).

Although Option 2 would create slightly more burden and cost for facilities that report on dioxin and dioxin-like compounds, EPA believes that Option 2 would result in greater net benefits than Option 1 by enhancing the utility of the data that are collected. The basic difference between Option 1 and Option 2 is that facilities must record the mass in grams values for each of the 17 chemicals in the reporting category on the Form R–D under Option 2. Provision of these mass in grams data will provide important information on which specific chemicals in the category are contributing most to the total toxicity as expressed in grams TEQ. Without these data, the user would be unable to determine to what extent the grams TEQ are related to dioxin and dioxin-like compounds of higher or lower relative toxicity as expressed by TEFs. These data will also allow the creation of valid time-series if TEFs are ever modified in the future as scientific understanding of the relative toxicity of the dioxin and dioxin-like compounds changes. In addition, provision of the mass in grams values will permit error checking of calculations for total grams TEQ that will enhance data quality. With Option 2, these goals would be attained at a total additional cost of approximately $14,000 to $15,000 per year. This cost may decline as more facilities use the automated routines in the TRI–ME reporting software. Although EPA has not quantified or

monetized the value of the net benefits, based on the reasoning described above EPA believes that the net benefits of Option 2 would be greater than the net benefits of Option 1. Option 3 would provide most or all of the same benefits as Option 2, but at a lower estimated burden to the reporting facilities. However, it should be noted that industry groups have specifically requested to report in terms of grams TEQ. Under Option 3, facilities would still be reporting in terms of mass for the members of the dioxin category, but in a format that will allow subsequent calculation of grams TEQ.

EPA expects to incur one-time costs for implementing reporting on the Form R–D. These costs are associated with production of guidance documents and training materials, modification of databases, and re-programming of automated reporting software. EPA's estimate of these one-time costs to allow reporting of individual gram quantities for each member of the dioxin and dioxin-like compounds category and for reporting in toxic equivalents is approximately $1.15 million. These costs are not expected to vary significantly across the three options (Ref. 5).

In addition to the incremental costs for each option, EPA has estimated the annual cost of required electronic reporting for submitting the Form R–D. Only 89 of 1,315 facilities that reported the Form R for dioxin and dioxin-like compounds are affected by this requirement. These 89 facilities submitted the Form R by paper and did not use either TRI–ME software or other approved software to generate their Form R. To meet the requirement that all Form R–D's be filed electronically, EPA modeled that potentially affected paper filers would need to purchase a computer. The annual computer cost annualized over a five year life is $183 (Ref. 3). The total annual computer cost for the 89 affected facilities is $16,280. Thus, the total annual first year and subsequent year cost for both the incremental burden of filing out Form R–D and required electronic reporting for each option is summarized in the following table (Ref 3).

Activity	First year cost	Subsequent year cost
Option 1		
Estimated Incremental Total	$139,315	$61,677
Computer Cost	16,280	16,280
Annual Total	155,595	77,957
Option 2		
Estimated Incremental Total	153,750	76,112
Computer Cost	16,280	16,280
Annual Total	170,030	92,392
Option 3		
Estimated Incremental Total	106,407	28,769
Computer Cost	16,280	16,280
Annual Total	122,687	45,049

EPA requests comments on its assessment of the costs of the addition of TEQ and individual grams reporting for the dioxin and dioxin-like compounds category. EPA is particularly interested in any options for reducing the burden that these new TEQ reporting requirements may have on small businesses. Of the estimated 481 affected parent companies which own reporting facilities, approximately 19 percent, or 92 companies, are small businesses as defined by the Small Business Administration.

VIII. References

1. American Chemistry Council, American Forest & Paper Association, American Portland Cement Alliance, Edison Electric Institute, and The Aluminum Association letter to John D. Graham, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Subject: Change to TRI Reporting of Dioxin, February 11, 2002.

2. Van den Berg, M.; Birnbaum, L.; Bosveld, A.T.C.; Brunstrom, B.; Cook, P.; Feeley, M.; Giesy, J.P.; Hanberg, A.; Hasegawa, R.; Kennedy, S.W.; Kubiak, T.; Larsen, J.C.; van Leeuwen, F.X.R.; Liem, A.K.D.; Nolt, C.; Peterson, R.E.; Poellinger, L.; Safe, S.; Schren, D.; Tillitt, D.; Tysklind, M.; Younes, M.; Warn, F.; Zacharewski, T. (1998) Toxic equivalency factors (TEFs) for PCBs, PCDDs, PCDFs for humans and wildlife. Environmental Health Perspectives. 106:775–792.

3. USEPA/OEI. Analysis of the Estimated Burden and Cost of the Form R–D for Dioxin and Dioxin-like Compounds; Toxic Equivalency Reporting; Community Right to Know Toxic Chemical Release Reporting, October 26, 2004.

4. USEPA/OEI. Estimates of Burden Hours for Economic Analyses of the Toxics Release Inventory, June 10, 2002.

5. USEPA/OEI. Memorandum Regarding TEQ Rulemaking Cost to the TRI Program from Daniel R. Bushman, Toxic Release Inventory Regulatory Development Branch, Toxic Release Inventory Program Division to Cody Rice, Analytical Support Branch, Environmental Analysis Division, October 16, 2002.

6. Memorandum Regarding Small Entity Impacts Associated with the Form R–D from Susan Day, *et al.* of Abt Associates Inc. to Cody Rice of USEPA/OEI, October 23, 2003.

IX. What Are the Statutory and Executive Order Reviews Associated With This Action?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. 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. Based on EPA's cost estimates for this action, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2086.01). The information requirements are not effective until OMB approves them.

EPCRA section 313 (42 U.S.C. 11023) requires owners or operators of certain facilities manufacturing, processing, or otherwise using any of over 600 listed toxic chemicals and chemical categories in excess of the applicable threshold quantities, and meeting certain requirements (*i.e.,* at least 10 Full Time Employees or the equivalent), to report certain release and other waste management activities for such chemicals annually. Under PPA section 6607 (42 U.S.C. 13106), facilities must also provide information on recycling and other waste management data and source reduction activities. The regulations codifying the EPCRA section 313 reporting requirements appear at 40 CFR part 372. Under the rule, all facilities reporting to TRI on dioxin and dioxin-like compounds would have to use the EPA Toxic Chemical Release Inventory Form R–D (tentative EPA Form No. 9350–3).

For Form R–D, EPA estimates the industry reporting burden for collecting this information (including recordkeeping) at 55.2 hours ($2,566) per response in the first reporting year and 53.9 hours ($2,507) in subsequent years for facilities with distribution data for the members of the category. For facilities without distribution data, the Form R–D is estimated to average 53.4 hours ($2,483) per response in the first reporting year and 52.1 hours ($2,424) in subsequent years. Note that these are total per facility burden and cost estimates for the Form R–D based on Option 2. (If a different option is selected, the total industry reporting burden will be more or less.) These per facility burdens and costs will be offset by burden and cost savings associated with no longer filing a Form R for the dioxin and dioxin-like compounds category. These estimates include the time needed to review instructions; search existing data sources and complete any necessary calculations; gather and maintain the data needed; complete and review the collection of information; and transmit or otherwise disclose the information. The actual burden on any specific facility may be different from this estimate depending on the complexity of the facility's operations and the profile of the releases at the facility. The annual computer cost per facility associated with required electronic reporting annualized over a five year life is $183. The total annual computer cost for the 89 affected facilities is $16,280.

This rule is estimated to cause 1,315 facilities to file a Form R–D rather than a Form R. Based on Option 2, Form R–D reporting is associated with a total burden of approximately 72,000 hours in the first year, and 70,000 hours in subsequent years, at a total estimated industry cost of $3.34 million in the first year and $3.26 million in subsequent years. (If a different option is selected, the total industry reporting burden will be less.) Note that these are total burden and cost estimates for the Form R–D, and that these estimates will be offset by the burden and cost reduction associated with no longer filing a Form R for the dioxin and dioxin-like compounds category. The existing Form R ICR (EPA ICR No. 1363.12) will be amended to delete burden hours and costs associated with 1,315 Form Rs. The net increase in burden hours and cost is reflected in the discussion of economic considerations in Unit VII.

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

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.

EPA has established a public docket for this ICR under Docket ID No. TRI–2002–0001, which is available for public viewing at the Office of Environmental Information Docket in the EPA Docket Center, EPA West, Room B102, 1301 Constitution Avenue., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m.–4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Office of Environmental Information Docket is (202) 566–1752. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.*

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques to Docket ID No. TRI–2002–0001 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number 2086.01 in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after March 7, 2005, a comment to OMB is best assured of having its full effect if OMB receives it by April 6, 2005. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A business that is classified as a ''small business'' by the Small Business Administration at 13 CFR 121.201; (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.

This rule is expected to affect the 481 parent companies that own the 1,315 facilities that report on dioxin and dioxin-like compounds. Of the affected parent companies, approximately 19 percent, or 92 companies, are small businesses as defined by the Small Business Administration. Of the 92 small businesses affected by this rule, approximately 8 would be subject to both incremental burden costs from filling out the Form R–D and computer costs from required electronic reporting. No small governments or small organizations are expected to be affected by this action. Based on the option with the highest burden to reporting facilities (Option 2), each affected facility is expected to expend approximately 3.1 hours in the first year and 1.8 hours in subsequent years to comply with the additional reporting requirements. Based on the incremental cost estimates for these burden hours, the number of facilities owned by each small businesses, and the annual revenues of the affected small businesses, all 92 affected small businesses are expected to experience incremental cost impacts of less than one percent of annual revenues (Ref. 3 and Ref. 6).

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

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for 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 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Based on EPA's cost estimate for this action, it has been determined that this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13132 does not apply to this rule.

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 rule from State and local officials.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 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. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Indian Tribal Governments, EPA specifically solicits additional comment on this rule from tribal officials.

G. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

H. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (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, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, EPA identified no such standards. Consequently, EPA proposes to use the TEFs established by the WHO in 1998 (Ref. 2).

List of Subjects in 40 CFR Part 372

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

Dated: February 28, 2005.

Stephen L. Johnson,

Acting Administrator.

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

PART 372—[AMENDED]

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

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

Subpart B—[Amended]

2. In § 372.30, revise paragraph (a) to read as follows:

§ 372.30 Reporting requirements and schedule for reporting.

(a) For each toxic chemical known by the owner or operator to be manufactured (including imported), processed, or otherwise used in excess of an applicable threshold quantity in § 372.25, § 372.27, or § 372.28 at its covered facility described in § 372.22 for a calendar year, the owner or operator must submit to EPA and to the State in which the facility is located a completed EPA Form R (EPA Form 9350–1) or, for the dioxin and dioxin-like compounds category, EPA Form R–D (EPA Form 9350–3) in accordance with the instructions referred to in subpart E of this part.

* * * * *

Subpart E—[Amended]

3. In § 372.85, revise paragraphs (a), (b) introductory text, and (b)(15)(ii) to read as follows:

§ 372.85 Toxic chemical release reporting form and instructions.

(a) *Availability of reporting form and instructions and reporting method.* Information on how to obtain the most current version of EPA Form R (EPA Form 9350–1 and subsequent revisions), the EPA Form R–D (EPA Form 9350–3 and subsequent revisions), and the instructions for completing these forms can be found on EPA's Web site at *http://www.epa.gov/tri.* EPA encourages facilities subject to this part to submit the required information to EPA electronically via the Internet or by using magnetic media in lieu of hard copies of the Form R. Facilities that submit the Form R–D are required to file electronically using EPA's Toxics Release Inventory-Made Easy (TRI–ME) electronic reporting software or other approved software. Electronic reporting software and instructions for submitting via the Internet or on magnetic media may be obtained from the Web site provided in this paragraph.

(b) *Form elements.* Information elements reportable on EPA Form R, Form R–D, or equivalent magnetic media format include the following:

* * * * *

(15) * * *

(ii) Reporting for the dioxin and dioxin-like compounds category. All of the following must be reported and must be reported on the Form R–D:

(A) Report the total quantity of the category as a whole, in units of grams per year;

(B) Report the quantity of each member of the dioxin and dioxin-like compounds category in units of grams per year;

(C) Report toxic equivalency (TEQ) for the category, in units of grams TEQ per year. TEQs shall be calculated using the following toxic equivalent factors:

CAS No.	Chemical name	Toxic equivalent factor (TEF)
01746–01–6	2,3,7,8-Tetrachlorodibenzo-p-dioxin	1.0
03268–87–9	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	0.0001
19408–74–3	1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin	0.1
35822–46–9	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin	0.01
39001–02–0	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	0.0001
39227–28–6	1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin	0.1
40321–76–4	1,2,3,7,8-Pentachlorodibenzo-p-dioxin	1.0
51207–31–9	2,3,7,8-Tetrachlorodibenzofuran	0.1
55673–89–7	1,2,3,4,7,8,9-Heptachlorodibenzofuran	0.01
57117–31–4	2,3,4,7,8-Pentachlorodibenzofuran	0.5
57117–41–6	1,2,3,7,8-Pentachlorodibenzofuran	0.05
57117–44–9	1,2,3,6,7,8-Hexachlorodibenzofuran	0.1
57653–85–7	1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin	0.1
60851–34–5	2,3,4,6,7,8-Hexachlorodibenzofuran	0.1
67562–39–4	1,2,3,4,6,7,8-Heptachlorodibenzofuran	0.01
70648–26–9	1,2,3,4,7,8-Hexachlorodibenzofuran	0.1
72918–21–9	1,2,3,7,8,9–Hexachlorodibenzofuran	0.1

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[FR Doc. 05–4339 Filed 3–4–05; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 98–67, CG Docket No. 03–123; DA 05–339]

Federal Communications Commission Seeks Additional Comment on the Speed of Answer Requirement for Video Relay Service (VRS)

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; comments requested.

SUMMARY: This document seeks public comment on a speed of answer requirement for the provision of Video Relay Service (VRS). The speed of answer requirement is currently waived as a mandatory minimum standard for VRS. The Federal Communications Commission (Commission) has reviewed the comments provided in response to the Further Notice of Proposed Rulemaking (*FNPRM*) contained in the *2004 TRS Report and Order,* and found that they lack specificity on certain elements of a speed of answer rule. In this document, the Commission is seeking additional comment on whether a speed of answer rule should be adopted for VRS and, if so, what the rule should be.

DATES: Interested parties may file comments in this proceeding on or before February 25, 2005. Reply comments may be filed on or before March 4, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office at (202) 418–2247 (voice), (202) 418–7898 (TTY), or e-mail at *Dana.Jackson@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 05–339, released February 8, 2005. When filing comments, please reference CC Docket No. 98–67 and CG Docket No. 03–123. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comment and reply comment to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments and reply comments by Internet e-mail. To get filing instructions, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Services mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–B204 Washington, DC 20554. Parties who choose to file by paper should also submit their comment and reply comments on diskette. These diskettes should be submitted, along with three paper copies, to: Dana Jackson, Consumer & Governmental Affairs Bureau, Disability Rights Office, 445 12th Street, SW., Room CY–C417, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CC Docket No 98–67 and CG Docket No. 03–123, type of pleading (comment and reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Pursuant to section 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure. The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contract, BCPI, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site *http://www.bcpiweb.com* or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This public notice can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro.*

Synopsis

On June 30, 2004, the Federal Communications Commission (Commission) released the *2004 TRS Report & Order,* which contained a Further Notice of Proposed Rulemaking (*FNPRM*) seeking comment on, among other things, a speed of answer