

2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, approving the Virginia section 111(d)/129 plan for small MWC units, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: June 29, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

■ 1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

■ 2. A new center heading, after § 62.11627, consisting of §§ 62.11635, 62.11636, and 62.11637 is added to read as follows:

Emissions From Existing Small Municipal Waste Combustor (MWC) Units—Section 111(d)/129 Plan

§ 62.11635 Identification of plan.

Section 111(d)/129 plan for small MWC units with capacities 35 to 250 tons per day, and the associated Virginia Air Pollution Control Board Regulations (Rule 4–46, and other supporting rules identified in the plan), submitted to EPA on September 2, 2003, including supplemental information submitted on August 11 and September 30, 2003; April 6, 2004; and April 18, 2005.

§ 62.11636 Identification of sources.

The affected facility to which the plan applies is each small MWC unit for which construction commenced on or before August 30, 1999.

§ 62.11637 Effective date.

The effective date of the plan for small MWC units is September 12, 2005.

[FR Doc. 05–13700 Filed 7–11–05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[TRI–2004–0001; FRL–7532–6]

RIN 2025–AA15

Toxics Release Inventory Reporting Forms Modification Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: To improve reporting efficiency and effectiveness, reduce burden, and promote data reliability and consistency across Agency programs, EPA is simplifying the Toxics Release Inventory (TRI) reporting requirements. TRI reporting is required by section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). This rule simplifies the TRI reporting requirements by removing some data elements from the Form R and Form A Certification Statement (hereafter referred to as Form A) that can be obtained from other EPA information collection databases, streamlining other TRI data elements through range codes and a reduced number of reporting codes, and eliminating a few data elements from the Form R. This rule also makes two technical corrections to the regulations to provide corrected contact information and to remove an outdated description of a pollution prevention data element.

DATES: This rule is effective on September 12, 2005. The first reports with the revised reporting requirements will be due on or before July 1, 2006, for reporting year (*i.e.*, calendar year) 2005.

ADDRESSES: EPA has established a docket for this action under Docket ID No. TRI–2004–0001. 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:

Shelley Fudge, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–0674; fax number: (202) 566–0741; e-mail address: fudge.shelley@epa.gov for specific information on this proposed rule. For more information on EPCRA section 313, contact the TRI Information Center, Toll free: (800) 424–9346, TDD: (800) 553–7672, callers in the DC area: (703) 412–9810.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

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

This document is also relevant to those who utilize EPA's TRI information, including State agencies, local governments, communities, environmental groups and other non-governmental organizations, as well as members of the general public.

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

This rule is being issued under sections 313(g)(1) and 328 of EPCRA, 42 U.S.C. 11023(g)(1) and 11048; and section 6607(b) of the Pollution Prevention Act (PPA), 42 U.S.C. 13106. In general, section 313 of EPCRA and section 6607 of PPA require owners and operators of facilities in specified SIC codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility-specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical

release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. In addition, Congress granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 authorizes the "Administrator [to] prescribe such regulations as may be necessary to carry out this chapter." 42 U.S.C. 11048.

III. What Is the Background and Purpose of Today's Actions?

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

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

The statute, along with regulations at 40 CFR part 372, subpart B, requires facilities that meet all of the following criteria to report:

- The facility has 10 or more full-time employee equivalents (*i.e.*, a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and
- The facility is included in Standard Industrial Classification (SIC) Codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20–39, 4911 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under Resource Conservation Recovery Act (RCRA) Subtitle C, 42 U.S.C. 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee

basis), or, under Executive Order 13148, federal facilities regardless of their SIC code; and

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

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

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

B. Why Are We Modifying the Form A Certification Statement and Form R?

EPA is modifying the TRI reporting forms to improve efficiency and effectiveness, reduce burden, and promote data reliability and consistency across Agency programs.

One of the purposes of today's actions is to reduce burden on facilities that submit annual TRI reports without compromising the data quality of toxic chemical release and other waste management information. "Burden" is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. 44 U.S.C. 3502(2). That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

EPA has made considerable progress in reducing burden associated with its various information collections through streamlining, consolidating and harmonizing regulations, guidance and

compliance assistance, and implementing technology-based processes (*i.e.*, electronic reporting, cross program data utilization, using geospatial information to pre-populate data fields). These measures have reduced the time, cost, and complexity of existing environmental reporting requirements, while enhancing reporting effectiveness and efficiency.

Today's actions reduce the time, cost and complexity of the reporting requirements imposed on facilities. While they are only expected to result in a modest amount of cost and burden savings, they also represent only the first phase of a broader and more substantive set of regulatory burden reduction alternatives currently being examined by EPA. That effort, described in more detail below, is expected to provide additional regulatory relief for TRI reporters.

A second purpose of today's rule is to improve data reliability and consistency across EPA programs. By replacing self-reported data from facilities with data from EPA's Facility Registry System on items such as latitude and longitude and facility ID numbers for other EPA programs, EPA can better ensure that this information is reported consistently across programs and facilities. Further, as locational information will have method of collection, accuracy, and a description of the location to which the coordinates correspond (*e.g.*, production center, discharge point), data users will be able to utilize information with greater confidence. By streamlining reporting requirements and improving data reliability and consistency, this rule will improve reporting efficiency and effectiveness.

C. What Led to the Development of This Rule?

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

EPA has also done extensive work to make reporting easier for the TRI reporting community through the development and use of technology,

such as EPA's Toxics Release Inventory—Made Easy software, otherwise known as “TRI-ME” (<http://www.epa.gov/tri/report/trime/>). TRI-ME is an interactive, user-friendly software tool that guides facilities through the TRI reporting process. By leading prospective reporters through a series of logically-ordered questions, TRI-ME facilitates the analysis needed to determine if a facility must complete a Form R or A report for a particular chemical. For those facilities required to report, the software provides guidance for each data element on Forms R and A. TRI-ME has a one-stop guidance feature, the TRI Assistance Library, which allows keyword searches on the statutes, regulations, and many EPCRA section 313 guidance documents. TRI-ME also offers a “load feature” that enables the user to upload almost all of the facility's prior year data into the current year's report. Finally, TRI-ME checks the data for common errors and then prepares the forms to be sent electronically over the Internet via EPA's Central Data Exchange (CDX). TRI-ME generated reporting forms may also be submitted offline via magnetic media or on paper. In the spring of 2005, EPA distributed approximately 5,000 copies of TRI-ME in preparation for the 2004 reporting year deadline of July 1, 2005. Approximately 93% of the roughly 98,000 Form Rs filed in 2004 were prepared using the TRI-ME software.

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

and/or disposal. This combined total corresponds to the quantity of the toxic chemicals in production-related waste (i.e., the sum of sections 8.1 through and including section 8.7 on the Form R).

In an effort to further explore burden reduction opportunities, EPA conducted a TRI Stakeholder Dialogue between November 2002 and February 2004. The dialogue process focused on identifying improvements to the TRI reporting process and exploring a number of burden reduction options associated with TRI reporting. In total, EPA received approximately 770 documents as part of this stakeholder dialogue. Of that, approximately 730 were public comments and the remaining documents were either duplicates or correspondence transmitting public comments to the online docket system. The public comments expressed a range of views, with some supporting burden reduction and others opposing it. You may view and obtain copies of all documents submitted to EPA by accessing TRI docket TRI-2003-0001 online at <http://www.epa.gov/edocket> or by visiting the EPA docket reading room in Washington, DC.

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

EPA decided to address the two categories of changes through separate rulemakings, one of which is today's action. This rule focuses on streamlining reporting associated with TRI's Forms R and A. The changes resulting from today's action are the elimination of some redundant or seldom-used data elements from these forms, and modification of other data elements to reduce the time and costs required to complete and submit annual TRI reports. It also replaces some elements with information from EPA's Facility Registry System in order to improve data reliability and consistency. EPA is confident these changes will enhance the efficiency and effectiveness of the TRI program by reducing reporting requirements, while continuing to provide communities and other data users with the same, or

higher quality, chemical release and other waste management information.

The second rulemaking, to be proposed later in 2005, will examine the potential for more significant reporting modifications with greater potential impact on reducing reporting burden. The options which may be considered in that rulemaking include expanding eligibility for Form A and introducing a “no significant change” option for chemical reports that have not changed significantly relative to a baseline reporting year. Because of the greater complexity and larger impacts potentially associated with this latter group of changes, additional analysis is needed to more thoroughly characterize its impact on TRI reporters and data users.

IV. Summary of Today's Final Rule

EPA is removing from the TRI Forms R and A the latitude/longitude data elements (section 4.6, Part I), the EPA Identification Number(s) (RCRA ID No.) (section 4.8, Part I), the Facility NPDES Permit Number(s) (section 4.9, Part I), and the Underground Injection Well Code (UIC) ID Number(s) (section 4.10, Part I). Instead of continuing to request this information from the TRI reporter, the Agency's Facility Registry System (FRS) will be used to populate the TRI database with this information. This information will continue to be made readily available for all TRI reports and applications such as the publicly accessible TRI Explorer and all Form A or R retrievals from Envirofacts at http://www.epa.gov/enviro/index_java.html. In other words, facility identification and locational data will still be made available for all reporters and data users, but instead of requiring facilities to supply their geographic coordinates or provide certain EPA program identification and permit numbers, the Agency will extract this data from information that is already collected, stored and maintained in its centrally managed database, the FRS.

Based on comments received and information gathered since the proposed rule, EPA is not removing from Form R or modifying in any way, part II, section 5.3 column C as part of today's rule. Section 5.3 applies to discharges to receiving streams and water bodies. Column C requires facilities to indicate the percentage of the total quantity of the EPCRA section 313 chemicals reported in column A (Total release) that are discharged from stormwater.

As part of today's action, the Agency is, however, making modifications to five data elements of part II, section 7 of the Form R. This rule simplifies column B of section 7A—Waste

Treatment Method(s) Sequence, by replacing 64 codes used to describe the various waste treatment methods applied to EPCRA section 313 chemicals treated on-site with a modified version of the 18 hazardous waste treatment codes (H040–H129), as they were described in the proposed rule. These 18 codes are a modified version of the codes used in EPA's National Biennial Resource Conservation Recovery Act (RCRA) Hazardous Waste Report (hereafter referred to as the RCRA Biennial Report). (See PDF screen page 63 of the 2003 Hazardous Waste Report Instructions and Forms (booklet) [EPA Form 8700–13 A/B; 11/2000] available at <http://www.epa.gov/epaoswer/hazwaste/data/br03/03report.pdf>).

Based on comments submitted, several modifications were made to the list of H codes presented in the proposed rule. For example, in the proposed rule EPA inadvertently omitted treatment code H083 (Air or steam stripping) from the list of 18 hazardous waste treatment codes. This was an oversight and EPA has included this code in today's rule. Furthermore, "as the major component of treatment" has been removed as a qualifier from H082 (Adsorption as the major component of treatment) and H083 (Air or steam stripping as the major component of treatment), "at another site" has been removed as a qualifier from H111 (Stabilization or chemical fixation prior to disposal at another site) and H112 (Macro-encapsulation prior to disposal at another site), and "only" has been removed as a qualifier from H121 (Neutralization only).

In addition, based on comment received on the proposed modification to section 7A column B, EPA has decided to retain the seven Air Emissions Treatment codes currently available for reporting in column B (see page 55 of the 2004 TRI Reporting Forms and Instructions (EPA 260–B–05–001, January 2005) at <http://epa.gov/tri/report/index.htm#forms>). Accordingly, this rule finalizes the following list of waste treatment codes for reporting in part II, section 7A, column B of Form R:

A01 Flare
 A02 Condenser
 A03 Scrubber
 A04 Absorber
 A05 Electrostatic Precipitator
 A06 Mechanical Separation
 A07 Other Air Emission Treatment
 H040 Incineration—thermal destruction other than use as a fuel
 H071 Chemical reduction with or without precipitation
 H073 Cyanide destruction with or without precipitation

H075 Chemical oxidation
 H076 Wet air oxidation
 H077 Other chemical precipitation with or without pre-treatment
 H081 Biological treatment with or without precipitation
 H082 Adsorption
 H083 Air or steam stripping
 H101 Sludge treatment and/or dewatering
 H103 Absorption
 H111 Stabilization or chemical fixation prior to disposal
 H112 Macro-encapsulation prior to disposal
 H121 Neutralization
 H122 Evaporation
 H123 Settling or clarification
 H124 Phase separation
 H129 Other treatment

This rule eliminates section 7A, column C—Range of Influent Concentration from the Form R.

Today's action allows facilities to report their treatment efficiency as a range instead of an exact percentage in column D (Waste Treatment Efficiency Estimate) of section 7A of Form R using the following ranges:

E1 = greater than 99.9999%
 E2 = greater than 99.99%, but less than or equal to 99.9999%
 E3 = greater than 99%, but less than or equal to 99.99%
 E4 = greater than 95%, but less than or equal to 99%
 E5 = greater than 50%, but less than or equal to 95%
 E6 = equal to or greater than 0% but less than or equal to 50%

This set of ranges is different from the set of ranges proposed. The ranges were modified from the proposal to allow data users to continue to distinguish the performance of combustion devices in excess of RCRA hazardous waste and TSCA PCB incinerator standards. The mid and lower range treatment efficiencies were modified as well, in response to comments to reduce the number of categories in those ranges and better reflect the distribution of historical values.

This rule eliminates column E (Based on Operating Data) of section 7A from Form R.

This rule also removes the current recycling codes for section 7C (On-Site Recycling Processes) of the Form R and replaces them with the following three reclamation and recovery management categories used in EPA's RCRA Biennial Report:

H10 Metal recovery (by retorting, smelting, or chemical or physical extraction)
 H20 Solvent recovery (including distillation, evaporation, fractionation or extraction)

H39 Other recovery or reclamation for reuse (including acid regeneration or other chemical reaction process)

See the PDF screen page 63 of the 2003 Hazardous Waste Report Instructions and Forms (booklet) (EPA Form 8700–13 A/B; 11/2000) available at <http://www.epa.gov/epaoswer/hazwaste/data/br03/03report.pdf>. Readers will note that the actual code numbers differ slightly from those in the RCRA instructions in that the leading "0" (i.e., H020) has been removed from each code name. This was done to avoid the need to reprogram TRI–ME, thus saving administrative costs. The Agency does not believe this will cause any confusion.

Today's action also modifies section 8.11 of Form R by removing the requirement to answer "yes" or "no" to this optional section on additional information on source reduction, recycling, or pollution control activities. Instead, an optional question will replace the requirement to answer "yes" or "no" and an optional text box feature will be added to EPA's TRI–ME reporting software to enable reporting facilities to add a brief description of their applicable source reduction, recycling, and other pollution control techniques and activities. Facilities will still have the opportunity to submit hard copies of any source reduction information they may wish to submit.

Finally, through this rule EPA is amending 40 CFR 372.85(a) to provide a reference to the TRI Web site to obtain the Form R instead of publishing in the regulations an incorrect physical address from which to request copies of TRI forms. In addition, EPA will also provide a phone number from which to request TRI publications. EPA is also deleting 40 CFR 372.85(b)(18), an outdated pollution prevention data element, which expired after the 1990 reporting year.

V. Summary of Public Comments and EPA Responses

EPA received 31 distinctive comments in response to this proposed rule. While the majority of commenters were supportive of today's actions, many commenters cautioned the Agency to make sure that the changes do not result in diminished data quality, utility, or accessibility. Some commenters urged the Agency to consider data user needs and to balance user needs with burden reduction. A number of commenters also stated that today's actions will only provide minimal burden relief, especially since some of the changes are for information that is collected by the facility one time and used from year-to-year. Others

expressed concerns about the initial transaction costs that TRI reporters, as well as the states, may incur to account for these reporting changes and to modify training materials and analysis mechanisms already in place.

The TRI reporting form changes in today's rule support existing data uses and fulfill statutory and regulatory obligations. They are the first step in the Agency's larger effort to reduce reporting burden for TRI reporters while at the same time, these changes allow the Agency to continue to provide valuable information to the public consistent with the goals and statutory requirements of the TRI program. Some of the changes being finalized today will shift the burden to the Agency, and will increase the quality of locational data and EPA program identification information (also referred to collectively hereafter as facility identification information). Other changes being finalized today will reduce computational burden, but maintain the availability of information in a form commensurate with its true underlying precision. Accordingly, EPA does not believe there will be a meaningful loss of information for users.

While today's changes provide only a modest amount of burden relief, they are important nonetheless, and based on comments received, many TRI reporters support this burden relief measure. EPA is committed to all of its ongoing burden reduction activities. As stated in the proposed rule and above at Unit III.C., the Agency is pursuing a broader and more substantive set of regulatory burden reduction alternatives in a future rulemaking.

EPA acknowledges that changes to the TRI reporting forms could lead to some initial transition costs for TRI reporting facilities and other TRI stakeholders. Balanced against this consideration, of course, is the fact that these changes will remove certain data elements from the reporting forms and simplify others, thereby making it easier for industry to comply with the TRI reporting requirements after the changes are made. For example, whereas Form R previously required reporters to distinguish between three separate on-site wastewater treatment method codes for cyanide oxidation, the changes finalized today will allow reporters to use one cyanide oxidation treatment code. In addition, the initial burden from adjusting to the form modifications that the commenters predict will not affect new reporters.

Further, EPA's TRI-ME software can be used by reporters to greatly ease reporting burden. The software guides reporters through a series of logically

ordered questions that helps them determine how to meet their regulatory obligations, and provides various tools for completing the reporting forms. The changes finalized in today's rule will be incorporated into the TRI-ME software. EPA does not require facilities or others to develop additional data collection, tracking or other databases or documentation. Neither does the Agency require any special training materials or courses as a result of today's actions.

EPA does not believe that this rule will impose significant burden on the states. Most of the changes being finalized are in the form of eliminating data elements. The Agency will continue to make all facility identification data available through the Facility Registry System (FRS). Furthermore, the Agency will continue to work with the states to improve electronic information exchange capability and the timeliness of such exchanges.

EPA's National Environmental Information Exchange Network ("Exchange Network") provides state partners the capability to access data through a streamlined web services process. As more states participate, they will be provided with the ability to use the Exchange Network's built-in quality checks, standard file formats, and a common, user-friendly approach to exchanging data. A majority of states already take advantage of EPA's Exchange Network. In addition, we expect numerous benefits to result from the centralization of data in the Agency's FRS, which provides an integrated, comprehensive source of information about facilities subject to a variety of environmental statutes and regulations. As an essential part of implementing this rule, EPA will provide increased access to both the FRS resources and the Agency's Integrated Error Correction Process (IECP), so that states, facilities, and the general public can more easily access facility identification information and report data errors when appropriate.

Finally, some commenters raised issues about burden reduction (e.g., no significant change certification criteria, expanded eligibility for Form A) that will be addressed in another rulemaking (discussed above in Unit III.C.) to be proposed later this year. Other commenters raised issues unrelated to this rulemaking (e.g., providing additional context for the TRI data). These comments are included in the public docket for this rulemaking but will not be addressed in this rule.

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

In the proposed rule, EPA requested comment on removing reporting of certain facility identification data (latitude/longitude coordinates and certain EPA program and permit identification numbers) from the TRI forms. Instead of collecting the data annually from facilities, EPA would use the centralized EPA database, known as the Facility Registry System (FRS), to populate the TRI database with this information. Specifically, EPA proposed populating the TRI database with latitude and longitude information (also referred to as locational data or locational information) from the FRS.

Under this proposal, locational information from FRS, including a description of what the latitude and longitude coordinates represent (e.g., center of production, pipe outfall, stack) would be made readily available for all TRI search applications, such as the publicly accessible TRI Explorer and all Form R and A retrievals from Envirofacts. Similarly, as part of the proposed rule, EPA requested comment on automatically populating the TRI database with EPA program and permit identification numbers (except the TRI facility identification number (TRIFID), which facilities must continue to report annually), from FRS as an alternative to requesting the information from TRI reporters. The program and permit identification numbers that will be populated from FRS include the numbers assigned to facilities under the Resource Conservation and Recovery Act (RCRA), the permit identification numbers under the National Pollutant Discharge Elimination System (NPDES), and the permit numbers issued by a state to facilities with underground injection control wells (UIC).

As discussed in the proposed rule, the FRS is a centrally-managed database developed by EPA's Office of Environmental Information (OEI). FRS provides Internet access to a single source of comprehensive information about facilities that are subject to environmental regulations and/or have attributes that are of environmental interest to EPA. The FRS database currently contains over 1.5 million unique facility records, and new facilities are continuously being added to the system, either through information supplied by EPA programs or through our state partners on the Exchange Network. At this time, facility

identification data are exchanged with over three dozen states through the Exchange Network. FRS also receives correction and verification information from the reporting community through Web-based access, and through EPA database systems, such as TRI, maintained by over a dozen EPA programs.

Eight commenters supported removing the proposed facility identification data from Forms R and A, and instead, replacing these data elements with data from the Agency's FRS so that TRI reporters would no longer have to annually report these data elements on their Form Rs or As. Several commenters voiced support for greater consistency between EPA's program databases, as well as increased simplification and standardization of the facility identification data that EPA collects, stores and makes available to the public. One commenter asserted that this change would enhance TRI reporting efficiency and improve data quality, especially if existing databases are utilized for populating Forms R and A. Two commenters stated that these changes would ease paperwork and reporting burdens and lead to greater consistency on data collection across Agency programs. Several commenters stated that the change would help eliminate redundant data collection. One commenter stated that the change would promote wider use of the FRS. Another commenter asserted that the change should help avoid data entry errors and promote consistent reporting of facility locational data.

EPA agrees with the commenters that the Agency's databases should be standardized and made consistent as much as possible across various programs. This regulatory change is part of a larger Agency initiative to increase the reliability and accuracy of the Agency's FRS database system. Accordingly, EPA is finalizing its proposal to use FRS to supply the data for sections 4.6 and 4.8 through 4.10 of Forms R and A.

Before finalizing this proposal, however, EPA evaluated the concerns expressed about "inherent flaws" in the Agency's FRS that compromise the Agency's efforts to consolidate environmental data, minimize reporting redundancies and create a single identification system. Contrary to statements in the proposed rule, one commenter claimed that facility identification records in FRS are not accurate or authoritative. A commenter asserted that this understanding is supported by industry representatives who must reconcile FRS data with company records. A number of

commenters emphasized that it was imperative to enable the public to easily retrieve all environmental information about a specific facility.

Commenters did not provide data to substantiate their claims of erroneous information in FRS. Nevertheless, the Agency examined FRS coverage of EPA program identifiers in the context of RCRA identification numbers (hereafter referred to as RCRA IDs) to test the commenters' concern. The FRS database contains all EPA program identification numbers that are stored in EPA's national program system databases. Regarding RCRA, FRS contains all the RCRA IDs from the RCRAInfo database, and is thus a definitive source for such information. The Agency examined over 10,000 TRI forms with RCRA IDs from the 2002 reporting year. A description of this study is included below under Unit V.A.2. of this preamble.

It is important to note here that the FRS database covers all the TRI reports for reporting year 2003 and has retained all TRIFIDs (there are over 49,000 of them) since the TRI program began in the late 1980s. FRS also has the latitude and longitude coordinates for all historical TRIFIDs. The Burden Reduction Rule will not impair the public's access to information about TRI reporting facilities, including locational data and EPA program identification numbers. These data will continue to be publicly available through various TRI access tools. Only now they will be supplied by the larger and more authoritative data files in FRS. To the extent that inconsistencies and errors are identified in the future, the Agency's Integrated Error Correction Process (IECP) will provide a convenient and effective mechanism for bringing these issues to the Agency's attention for resolution.

Two commenters asserted that ideally, EPA should refrain from relying on FRS to supply data to TRI until all states are participating in the Exchange Network and have the capability to upload data into FRS. One commenter stated that 14 states are still not active in the Exchange Network. The commenter asserted that data regarding facilities in non-participating Exchange Network states are not being scrutinized by people most familiar with those facilities. According to the commenter, until all states are part of the network, EPA lacks the "on-the-ground" intelligence needed to ensure that FRS data is accurate or complete.

EPA agrees that ideally all the states should be part of the existing Exchange Network. However, we believe that the commenter that urged EPA to wait to implement this rule "until all states are

participating in the FRS program" may not have understood that FRS contains data about regulated facilities' identification information that has been provided both by EPA's many database systems and by many state environmental agencies. States do not need to take any specific action to access information data from FRS and information is available in FRS for facilities in states that aren't yet a part of the Exchange Network from various EPA sources. Anyone, including state agencies, can access data from FRS at any time. While it is true that not all states currently participate in the Exchange Network, the vast majority of states do participate, and EPA is working closely with non-participating states to help facilitate their full participation in the near future.

Accordingly, EPA does not agree that the rule should be delayed until all states are participating in the Exchange Network, nor does EPA agree that the Agency lacks the "on-the-ground" intelligence needed to ensure that FRS data are accurate or complete until such time. The FRS is already functioning and will be further enhanced as part of the effort to implement this rule. EPA will provide all states and other data users the opportunity to correct inaccurate TRI data. All states and reporters will be able to correct inaccurate information on locational data and EPA program identification numbers through the Agency's Integrated Error Correction Process (IECP). As explained in the proposed rule, another advantage of utilizing information in the FRS is that one can take advantage of EPA's Public Internet site to submit corrections to EPA's data on regulated facilities through one central access point. The IECP unifies the process by which EPA regulatory programs manage error notifications to the data in their systems. IECP is part of an ongoing EPA effort to improve the quality of EPA's publicly available data. Through the IECP, the public can directly notify EPA of a data error they've identified in EPA's publicly available data. They may notify EPA through a variety of venues that include the following: (1) Selecting the "Contact Us" hotlink from the EPA Home Page and accessing the link "report data errors", (2) calling the IECP desk, (3) sending a fax, or (4) e-mailing a detailed description of the error.

Furthermore, the Agency will take one additional step to ensure a smooth transition to the use of FRS. For reporting year 2004, the e-FDR is expected to be publicly released in the fall of 2005. At the time of the posting of the individual TRI reporting form

submissions (which will still contain the collected facility identification data elements), EPA will also post the facility identification information stored in FRS. This will enable interested parties to directly observe the data and confirm its accuracy. Lastly, the Agency will be working closely with all states to ensure a smooth transition to the utilization of pre-existing facility identification data in FRS.

One commenter recommended that EPA delay implementing the use of FRS to supply facility locational data and EPA program identification numbers until a pilot study is conducted to ensure that these data are of equal or higher quality in FRS than the data which are contained in the TRI database. In addition, according to the commenter, problems arise when the TRI dataset contains locational data for facilities that FRS does not cover. While having all states as part of the Exchange Network may help address these problems, the commenter asserted that there are inherent limits to this kind of after-the-fact reconciliation. The commenter urged EPA to delay implementation until the FRS dataset is complete and the agency can ensure the accuracy of the data.

While EPA does not agree that we should delay using FRS to access TRI facility identification information until a pilot study can be undertaken, a separate assessment was conducted of locational information in FRS versus that contained in the TRI database. The locational information in the two systems was compared on the basis of performance against two criteria: A quality screening approach and conformance to the Agency's data standards for locational information.

Absent very detailed site information, it is difficult to design a locational screening test. What the Agency did was to compare the locational data stored in FRS versus such data in the TRI database on a county basis (*i.e.*, what percentage of reported locational data were within the boundaries of the counties where the facilities' street addresses were located). While it is possible for a street address to vary appreciably from the location of the facility's center of production, the Agency believes this test provides a first approximation of relative performance. We found that 98% of all FRS locational data as opposed to 97% of all TRI locational data met this criterion. Therefore, on the basis of this broad measure, the two systems had comparable information.

For the second test, the Agency looked at how the data conformed with the Agency's data standards for

locational information (*i.e.*, a description of the method of data collection and what is measured, as well as probable accuracy). Fully 89% of all TRI facility locational data for reporting year 2003 would have been able to meet the Agency's data standard requirements if FRS had been used to derive TRI locational data. Currently, none of the TRI locational data can meet the Agency's data standards for locational information, which require metadata for the method, accuracy and description of what the latitude and longitude coordinates represent.

Over the coming months, the Agency is implementing a program to ensure that virtually all TRI facilities will have locational information that meet the Agency's data standard requirements. An implementation plan describing this program has been included in the docket that accompanies this rule. Furthermore, through the IECP, EPA provides the opportunity to correct inaccurate data maintained for use by TRI data users.

1. *Removal of Latitude/Longitude Reporting Requirement (Section 4.6 of Forms R and A).* Three commenters recommended that reporters be provided the opportunity to review and correct the latitude/longitude data stored in EPA's FRS before removing section 4.6 from the reporting forms and replacing it with locational data from FRS. One of the commenters also recommended that EPA keep FRS locational data updated in a timely manner.

While EPA does not agree with the commenters' suggestion on waiting for facilities to review their locational data before removing part I section 4.6 from the TRI reporting forms, EPA wholeheartedly agrees with the commenters that TRI reporters should be allowed to review and correct their latitude/longitude data in FRS. We are taking a number of steps to provide this opportunity. Specifically, in the fall of 2005, at the time of the electronic facility data release (eFDR), we will be providing the relevant FRS locational information along with the responses provided by the facility for the 2004 reporting year. This will enable all interested parties, including data reporters and users to compare the information contained in the most recent TRI submission with the corresponding information for that facility in FRS.

Any interested party will have the opportunity to raise concerns with TRI-reported latitude/longitude values or the new values to be derived from FRS. These concerns may be submitted to the Agency through the IECP (discussed

above). The Agency plans to improve access to the IECP to make it very easy for TRI reporters or data users to review and notify the Agency of inaccurate locational values.

One commenter cautioned EPA that the definition of "facility" under EPCRA is not necessarily the same as the definition of "facility" under other statutes, and that this could affect the use of FRS data. The commenter asserted that under EPCRA two sites that are adjacent and/or contiguous and that are owned by the same entity are considered to be one facility (even if separated by a public road). However, according to the commenter, under RCRA the sites would be considered two facilities. As such, there may be instances where the data from each source is different for the same "facility."

Variation in facility definitions as one crosses EPA program boundaries is one of the major challenges the Agency faces in its efforts to develop a central facility registry. However, it is a challenge which already faces some users of TRI information. For example, users of information for RCRA assessments are already faced with the challenge to create a map between multiple RCRA facilities and a single TRI facility, when the facility definitions are not consistent. Likewise, there may be cases where the TRI-reported RCRA IDs do not constitute the totality of RCRA IDs associated with a given TRIFID due to a limited number of spaces on the TRI form. Presently, crosswalk checks are completed manually.

The conversion to the use of FRS for facility identification information should actually strengthen the mapping across programs with different facility definitions. To understand why this is so, one needs to understand the meaning of a facility in FRS. In FRS, each entity with a discrete street address is an independent facility. Where individual programs will disagree is in the case of more complex facilities where ownership or programmatic considerations have led to the clustering of multiple FRS "facilities" into a single entity for the purposes of a program (*e.g.*, TRI).

A key step in the transition to the use of FRS supplied locational data will be the creation of a program map. This map will use the 2004 TRI responses to assign a TRI facility identification number (TRIFID) to each relevant FRS facility. Where multiple FRS facilities have the same TRIFID, all will be assigned the same TRIFID. This map will ensure that the locational information for the TRI facility contains not only all relevant locational

information, but also all relevant EPA program identification numbers. Furthermore, the locational information retrieved will be superior to current TRI information because it will have metadata describing how the information was derived, its collection method, its probable accuracy, and a geographic description (*i.e.*, whether it is based on the center of the production facility, a pipe outfall, stack, etc.). This change will provide a much more comprehensive look at all of the locational information for TRI facilities. Furthermore, the enhanced access to the IECP for data suppliers and users should result in a steady improvement in facility mapping and locational information.

One commenter was troubled about how long it would take to populate FRS with TRI data and complete data quality checks. The commenter urged EPA to ensure that no lapses occur in the availability of locational data as a result of this process.

EPA will ensure that there is no lapse in making locational data available for TRI data users. Locational data from TRI and other programs is already stored in FRS and the Agency will provide a seamless transition from collecting locational data directly from TRI reporters to pulling existing locational data out of FRS and providing it along with other facility identification information to TRI data users starting with the public data release for reporting year 2005 information, which must be submitted by July 1, 2006.

Several commenters expressed concern that EPA's FRS database does not often have previously stored locational data for first-time TRI reporters. The commenter asserted that this data gap problem could also be exacerbated by the fact that not every state is participating in EPA's Exchange Network. The commenter recommended that EPA modify the rule to require reporting of locational data by first time reporters. Another commenter stated that data gaps in the FRS database could be best addressed by requiring new reporting entities to include additional information on facility identification data the first time they are required to complete Form R or A.

EPA acknowledges that there are a relatively small number of new facilities that submit TRI Form R or A reports each year for which the Agency does not already have locational data stored in FRS. The Agency disagrees, however, that new reporters should be required to submit locational data. EPA plans to use street address matching in combination with its siting tool to populate FRS with locational data for those cases in which

FRS has no previous locational data for new reporters. As discussed above, reporters, as well as the states and the general public will be provided the opportunity to submit a request for correcting inaccurate facility locational data by using the Agency's IECP.

Two commenters opposed the use of address matching for deriving TRI facility latitude/longitude data. One commenter stated that the two most apparent problems with this method are: (1) If the facility is in a rural or unpopulated area, offshore, etc., then the software may be unable to match the address to a location; and (2) the facility's mailing address may not be the location where the toxic chemical releases occur. For example, if a facility picks up mail at a headquarters building that manages several facilities, this would create a different latitude/longitude than where its stacks are located.

The second commenter claimed that as much as 70% of the locational data derived from various EPA databases and stored in FRS may be based on address matching. The commenter maintained that some of the locational data in FRS may be based on wastewater outfall locations that can be long distances from the facilities. Reliance on FRS data collected from these other databases, according to the commenter, would introduce significant error into the use of the information.

The Agency disagrees with these commenters. Dealing with the second comment first, FRS does not use mailing addresses for locational referencing of facilities. Rather, the actual street address of the facility is used. EPA believes that street address matching, used in combination with our facility siting tool (*i.e.*, a geospatial application that uses aerial imagery to determine latitude and longitude coordinates) in rural areas, can provide credible locational coordinates for all TRI facilities. EPA plans to use this method for new reporters and for other cases in which no credible locational data is available in FRS. The Agency believes that this method provides a better source of data than locational data for which there is no metadata (*i.e.*, no explanation as to how the information was derived or its accuracy), which occurs with the current locational data reported to the TRI program. Furthermore, because the Agency plans to include all locational information in the next e-FDR, anyone interested in a particular facility will be able to easily raise concerns through the IECP with the data chosen to represent the location of the facility.

As to the concern with the quality of FRS, FRS has been operational since 2000 and continues to improve data quality. Many EPA programs utilize FRS and the existing IECP process is in place to facilitate receipt of suggested corrections to locational information. Despite these facts, only a very small percentage of IECP requests have involved locational updates. Further, for smaller facilities, especially those most likely to rely on street addresses, we believe an address is a reliable indicator of location.

Further, FRS will provide a complete picture of all locational information available on a facility. Because FRS provides metadata for the method, accuracy, and description of its locational data, it will be possible to know exactly the nature of the point being measured. The data user of such information will know whether they are using a point based on an outfall, a stack, or the center of the production. To the extent that a preferred location reported out of FRS is incongruent with the intended use of the TRI information, the data user may simply use another locational value for their purposes. This is a significant improvement on the current TRI locational values of unknown accuracy and relevance.

One commenter recommended that instead of removing section 4.6 from the TRI reporting forms, facilities should instead certify that the latitude and longitude data reported to TRI is obtained either from EPA's Facility Siting Tool or from a Global Positioning System (GPS) device. According to the commenter, this would ensure that facilities provide more accurate information.

The Agency does not agree with the commenters that there is an issue with the accuracy of locational information in FRS. Furthermore, we do not agree that increasing reporting burden on TRI reporters to provide locational data that is already available in FRS is an appropriate response. Transitioning to FRS use for locational information will allow users to not only have the most current locational information, but a clear indication of the method of collection, description of what is measured, and probable accuracy. They will know the reference point of the facility (*e.g.*, the street address, a stack, or some permitted portion of the facility) for which locational information is provided. Finally, use of FRS will improve the overall quality of TRI facility locational information. FRS will be continuously gathering the best locational information based on metadata for the method, accuracy and description of what the latitude and

longitude coordinates represent—including GPS-based data—as opposed to relying only on TRI-reported values of unknown precision. Furthermore, as stated in response to several previous questions, the IECF will provide yet another means for continually improving facility identification information.

2. *Removal of Reporting Requirements for EPA Permit and Program Identification Numbers (Sections 4.8, 4.9 and 4.10 of Forms R and A).* Three commenters emphasized the importance of EPA facility identification numbers to TRI data users, including various EPA program offices and the general public. One commenter cited, as an example, the use of Resource Conservation and Recovery Act (RCRA) identification numbers to calculate “double counting” of TRI chemical disposal transfers sent to TRI facilities that report the same chemicals again. The commenter stated that RCRA Identification numbers (RCRA IDs) allow transfers of chemicals (marked with RCRA IDs in section 6 of Form R) to be matched up with receiving TRI facilities (marked with RCRA IDs in section 4.8). The commenter also cited a 1998 report by a public interest organization to demonstrate the usefulness of collecting EPA program identification numbers in TRI. The report used the Underground Injection Control identification numbers to help analyze the completeness and accuracy of underground injection well data in EPA databases. According to the commenter, these examples are just a small sample of the many uses for this data. The commenter recommended that EPA conduct a small study to demonstrate that FRS data is of equal or higher quality to TRI’s program identification data before removing these data elements from the TRI reporting forms.

EPA agrees with the commenters that the EPA program identification numbers in sections 4.8 through 4.10 of the TRI reporting forms are important and are used extensively by various EPA offices, the states, and the general public. This information will not be lost. Program identification numbers previously reported through TRI are already stored in the TRI database known as the Toxics Release Inventory System (TRIS) and will be available to data users through access tools offered by the Agency.

Nevertheless, in consideration of commenters’ concerns, EPA conducted a study of RCRA IDs and concluded that FRS provided higher data quality than TRI reporting. In particular, the Agency examined over 10,000 TRI forms with RCRA IDs from the 2002 Reporting Year. These facilities were selected because

they were used by the Office of Solid Waste in its annual evaluation of waste minimization progress for approximately thirty chemicals related to a Federal Government Performance and Result Act (GPRA) goal. In its evaluation, the Office of Solid Waste uses the RCRA IDs in conjunction with Form R sections 5 and 6 data to estimate the quantities of priority chemicals that may be contained in hazardous versus non-hazardous wastes. This activity is analogous to those of interest to the commenters.

Approximately 800 RCRA IDs were found in the TRI database that did not match RCRA IDs in the RCRAInfo database. Almost half of these RCRA IDs contained obvious transcription errors (i.e., “o” substituted for “zero”, etc). It is not clear to what extent the remainder represent more subtle transcription errors or other factors, although it is important to note that the Office of Solid Waste maintains an active data stewardship program. On the other hand, it is also important to note that the TRI Reporting Form has only two spaces for the listing of RCRA IDs. Because of differences in facility definitions, it is quite reasonable to assume that a current TRI facility could be associated with more than two RCRA IDs. Given these factors, and the fact that FRS contains RCRA IDs assigned by EPA’s RCRA program, there can be little doubt that FRS is a more definitive source of information on RCRA IDs, and that cross program coverage will be improved by conversion to the use of FRS.

We believe that the few cases in which there may be information gaps can be addressed by improving communication between EPA’s Office of Environmental Information, which operates both the TRI and FRS programs, and the other Agency offices responsible for the program identification data at issue. The one possible exception to this statement relates to IDs for underground injection sites reported under the UIC program. Presently, UIC IDs are not collected on the Federal level except as a part of TRI. States maintain these records. Unfortunately, because of form limitations, TRI reporters have not necessarily provided a full listing of UIC permitted wells. EPA’s Office of Information Collection is working with the Office of Ground Water and Drinking Water, however, to gather UIC information from individual states to include in FRS. It is anticipated that states will begin to provide this more complete information in 2006, in advance of the first data release to be affected by this rule.

One commenter expressed concern about a time lag in the availability of EPA program identification data if EPA removes the program identification numbers from the TRI reporting forms. The commenter cited the importance of this data to a variety of community groups across the country and urged EPA to quickly address this potential problem so the public would not experience a lag in its use of TRI Explorer.

As discussed above, the FRS already stores EPA program identification data. EPA will ensure that there is no lag in the availability of such data in TRI Explorer or Envirofacts, the two EPA data applications that TRI data users rely upon to access TRI-related data. By the time that the 2006 TRI Public Data Release (PDR) is published, all applicable FRS data will have been copied into the TRI database for publication.

One commenter asserted that the EPA program identification numbers on the TRI reporting forms are used by state environmental agencies as a cross reference for other program applications. According to the commenter, at least one state uses the data as a link to hazardous waste generator reporting, in addition to its use as a key identifier for TRI facilities. The commenter expressed concern that the proposed rule did not address how states would receive these data elements if they are not supplied with the Form R. The commenter contended that many states have developed their own data systems to manage the TRI reports filed with the state and they regard TRI reporting as a joint EPA-State partnership since facilities are required to file their forms at both the Federal and State levels. The commenter expressed concern that the data elements states need to manage their TRI data will be lost if this change is finalized.

EPA is committed to ensuring that states and TRI data users have accurate program identification numbers associated with TRIFIDs. To ensure that these data are available to states in a timely fashion after the TRI report is filed with EPA’s Reporting Center, the Agency will use the Exchange Network to share data with states using the web services available through the Central Data Exchange (CDX). For states that may not yet be web-enabled, EPA will make available other electronic means to retrieve program identification numbers for the TRIFIDs of interest.

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

In the proposed rule, EPA asked for comment on removing part II, section 5.3 column C from Form R. This data element applies to discharges to receiving streams and water bodies. Column C requires facilities to indicate the percentage of the total quantity of the EPCRA section 313 chemicals reported in column A (Total release to that water body) that are discharged due to stormwater. Column C was the only part of section 5.3 affected by this proposal. Changes to the rest of part II, section 5.3 were not included in this proposal.

A number of commenters supported the removal of column C, claiming that this data element is difficult to accurately estimate. Others in favor of removing column C from Form R asserted that there does not appear to be any significant use of this data element by the public or other TRI stakeholders.

Three commenters, however, opposed removing section 5.3, column C. One commenter noted that this data element is important to understanding periodic spikes in overall water releases that may be caused by stormwater run-off. According to this commenter, directing data users to the NPDES system to obtain this information is not an adequate option because integrating data across EPA's databases is not an easy task. Further, the commenter asserted that phosphate mining stacks may be an example of a sector that is not part of the NPDES system but reports significant quantities of toxic chemicals contributed by stormwater. The commenter requested EPA to examine whether there are other sectors for which the public cannot get the same data from NPDES before eliminating this data element.

Another commenter stated that it is not uncommon for the overall water releases reported in TRI to rise or fall because of a few facilities with large releases associated with stormwater. The commenter contended that stormwater runoff often dominates such large releases, and the inclusion of this data element allows users to better understand what drives year-to-year variations in water release data, and to detect whether increases were due to production changes or rainfall. According to the commenter, if column C were to be removed TRI data users would have to cobble together information about the percentage of

stormwater contribution from various EPA database sources.

Yet another commenter stated that these particular percentages have been useful to the public when making year-to-year comparisons of discharges to water. According to this commenter, these numbers can vary wildly from year-to-year, and having information about the percentage attributed to stormwater runoff, versus the amount that could be attributed to a discharge of toxic chemicals, is critical information for the public. The commenter asserted that this proposed change represents a significant loss of data.

Based on the public comments received and additional information that has recently come to light from EPA's Office of Water, the Agency now better understands how this data element is used by EPA program offices, states, communities, researchers and other TRI data users. The Agency has thus decided not to remove column C of section 5.3 from Form R. While EPA acknowledges that it may be difficult for some facilities to estimate the percentage of the total quantity of toxic chemicals contributed by stormwater, EPA believes that this data element provides important information that helps researchers, communities and other TRI data users make year-to-year comparisons of discharges of toxic chemicals to water that is unavailable elsewhere. One example of how these data are used comes from the Division of Engineering and Analysis in EPA's Office of Water, which uses this data element in its pollution control activities and the Agency's biennial report to Congress under section 304 B of the Clean Water Act.

As to the availability of this information from other sources, the commenters were again divided. There clearly are areas of non-coverage by other databases and, at a minimum, it would be difficult to pull the information together in one place to inform the public and other data users. Furthermore, even if the information could be pulled together in one place, there inevitably would be difficulties introduced by trying to harmonize TRI and NPDES release totals between two databases that may have differences in assumptions or measurement approaches. We believe the continued collection of this data element best fulfills the EPCRA reporting goals of the program and therefore, EPA will not be finalizing the proposal to eliminate column C of section 5.3, part II of the Form R.

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

As explained in the proposed rule, section 313(g)(1)(C)(iii) of EPCRA states that facilities must report "for each wastestream, the waste treatment or disposal methods employed, and an estimate of the treatment efficiency typically achieved." 42 U.S.C. 11023(g)(1)(C)(iii). Data elements collecting waste treatment information and related details, such as whether the efficiency estimate was based on operating data, were implemented through a 1988 rule. 53 FR 4516-18 (Feb. 16, 1988). For recycling activities, section 6607(b)(2) of the PPA states facilities must report "the amount of the chemical * * * which is recycled * * * and the process of recycling used." 42 U.S.C. 13106(b)(2). Facilities fulfill these obligations, in part, by reporting qualitative information regarding their on-site waste treatment and recycling of EPCRA section 313 chemicals in part II, section 7 of the Form R.

In the proposed rule EPA asked for comment on the following modifications to part II, section 7 of the Form R:

(1) Simplifying column B of section 7A (Waste Treatment Method(s) Sequence) by replacing 64 codes used to describe the various waste treatment methods with a modified version of the 18 hazardous waste treatment codes currently used in EPA's RCRA Biennial Report;

(2) Eliminating column C of section 7A (Range of Influent Concentration);

(3) Simplifying column D of section 7A (Waste Treatment Efficiency Estimate) by replacing the requirement to submit an exact percentage with a range code;

(4) Eliminating column E of section 7A (Based on Operating Data); and

(5) Simplifying section 7C (On-Site Recycling Processes) by replacing 16 codes used to report particular recycling methods with 3 reclamation and recovery codes used in EPA's RCRA Biennial Report.

EPA received comment on each of these five proposed modifications. A summary of these comments and responses to them are addressed in turn in the following sections.

1. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column B—Waste Treatment Method(s) Sequence)*. EPA received a number of comments in response to the proposal to simplify column B of section 7A—Waste Treatment Method(s)

Sequence, by replacing the 64 codes (see page 55 of the 2004 Toxic Chemical Release Inventory Reporting Forms and Instructions (EPA 260-B-05-001, January 2005) at <http://epa.gov/tri/report/index.htm#forms>) used to describe the various waste treatment methods applied to EPCRA section 313 chemicals treated on-site with a modified version of the 18 hazardous waste treatment codes (H040-H129) currently used in EPA's National Biennial RCRA Hazardous Waste Report, also known as the RCRA Biennial Report. (See page 63 of the 2003 Hazardous Waste Report Instructions and Forms (booklet) [EPA Form 8700-13 A/B; 11/2000] available at <http://www.epa.gov/epaoswer/hazwaste/data/br03/03report.pdf>).

A majority of the commenters supported reducing the number of on-site waste treatment codes, claiming that this change will reduce burden for TRI reporters. Further, by making the reporting codes consistent with the RCRA Biennial Report, TRI reporting will be made easier for those facilities familiar with RCRA.

EPA agrees with the commenters that reducing the number of on-site waste treatment codes and making them more consistent with the reporting codes used in EPA's RCRA Biennial Report will result in less reporting burden for TRI reporters. The vast majority of comments submitted about this section of the proposal confirmed EPA's belief that facilities recognize and appreciate EPA's efforts to provide more consistency between its various reporting requirements and program activities. The comments also confirmed our belief that there would be no significant loss of data quality if the codes were consolidated.

One commenter supported the proposed change but cautioned that it would actually increase the burden of TRI reporting since not all facilities file RCRA Biennial Reports, and these facilities may be unfamiliar with the RCRA codes. The commenter expressed concern about those reporters who would have to familiarize themselves with the new codes and revise their TRI analysis accordingly. This commenter was also concerned that reporters that fill out both TRI annual and RCRA biennial reporting forms would still have an initial period where TRI analysis mechanisms already in place would have to be adjusted.

EPA appreciates the commenter's concern regarding those reporters unfamiliar with the reporting codes in the RCRA Biennial Report. EPA believes, however, that in the vast majority of cases, facilities will be

familiar with these codes. As explained in the proposed rule, eighty percent of TRI reporters report a RCRA identification number on Form R, part I, section 4.8. The majority of facilities with an assigned RCRA identification number also file a RCRA Biennial Report. While there may be an initial period of adjustment, EPA believes that the long-term burden reduction benefits greatly surpass any short-term drawbacks. To facilitate a smooth transition, EPA will include additional information in the annual TRI reporting forms and instructions manual. The instructions will define each of the new codes, explain the few minor differences that exist between the new TRI codes and the RCRA Biennial Report codes, and describe the relationship between the old treatment codes and the new ones.

Some commenters opposed the proposal to replace the 64 waste treatment codes with the 18 codes used in the RCRA Biennial Report. One commenter recommended that EPA not use the RCRA H treatment codes and instead, use a shorter, more concise list of codes.

EPA disagrees with the commenter that a shorter list of codes should be used for section 7A column B instead of the RCRA H treatment codes. We believe that since the majority of TRI reporters also report their hazardous waste treatment methods in EPA's RCRA biennial reporting process, a consistent use of reporting codes will result in more reduced reporting burden than shortening the current TRI list of codes. During the development of the proposed rule, the Agency considered reducing the number of RCRA H treatment codes for Form R, but we decided that a slightly modified version of all 18 different RCRA H treatment codes is needed to adequately capture the various types of hazardous waste treatment methods used by facilities.

Another commenter expressed opposition to reducing the number of treatment codes, emphasizing the desire for accurate reporting rather than "simplified" reporting. A second commenter stated general opposition to this proposed change contending that such a change would represent a loss of data.

EPA disagrees with these commenters. No specific information or compelling examples were provided by commenters regarding potential data loss if the treatment codes in section 7A column B were reduced and made consistent with the hazardous waste treatment codes used in the Agency's RCRA Biennial Report. Rather, EPA believes that this change will improve

data quality because it will prevent reporters from over-specifying their treatment trains. Consequently, EPA will replace the 64 waste treatment codes with a modified version of the 18 hazardous waste H treatment codes used in the RCRA Biennial Report (plus seven air emission treatment codes as discussed in the following paragraphs) for use in section 7A, column B of Form R.

Some commenters who were generally supportive of the proposal to use the RCRA treatment codes, raised specific concerns. For example, ten commenters expressed concerns regarding the removal of air emissions treatment codes in the proposed consolidated treatment codes for section 7A, column B. Several of these commenters recommended that the Agency retain the seven air emissions treatment codes (A01 to A07) currently used for reporting in Section 7A, column B. Many commenters stressed their concern about the lack of codes to cover the treatment of gas streams, which one commenter asserted was the primary means by which utilities reduce their toxic chemical releases, and the primary waste treatment method used at electric power plants. Another commenter stated that since the on-site treatment of acid aerosols are among the most voluminous gas streams reported in Section 8.6, it was especially important to make air emissions codes in section 7A column B available to accurately capture this type of treatment. Without specific air emission codes, they maintained that facilities would have to use the code for "other treatment" (H129) and this code would not provide any useful information to TRI data users.

EPA agrees with the commenters that it is important to adequately describe the treatment methods used for air emissions and gas streams. Based on the comments submitted, the Agency better understands and appreciates the necessity to include air emissions codes in section 7A column B of Form R. While EPA proposed the complete consolidation of the treatment codes in section 7A column B to make them consistent with the hazardous waste codes used in the RCRA Biennial Report, we inadvertently overlooked the fact that the RCRA codes don't cover air emissions very well. EPA agrees with the commenters that a substantial amount of valuable data would be lost if the seven existing codes for air emissions were to be removed. Consequently, this final rule retains the seven existing air emissions codes used in section 7A column B.

Several commenters questioned why EPA omitted one of the RCRA H treatment codes, H083, from the list of 18 hazardous waste treatment codes proposed for use in section 7A column B. Several of these commenters requested that EPA clarify whether this was an intentional omission.

EPA inadvertently omitted treatment code H083 from the list of 18 hazardous waste treatment method codes that were proposed to replace the existing 64 treatment codes in section 7A, column B of Form R. EPA recognizes the need to include treatment code H083 to capture air or steam stripping treatment and has included this code in the final rule.

One commenter questioned how the phrase used in a parenthetical in the proposed treatment code H083 “(as the major component of treatment),” would apply in sequential on-site treatment methods where the approach is simply one step in a multi-step process. The commenter noted that the same parenthetical phrase might be applied to proposed treatment code H082 as well if EPA used that code in the final rule. This commenter contended that since several of the other treatment codes proposed for use in section 7A column B did not include the parenthetical phrases used in the RCRA Biennial Report, “(as the major component of treatment),” should be omitted from codes H082 and H083 as well.

EPA appreciates receiving the comment requesting clarification on the use of the parenthetical phrase “as the major component of treatment” at the end of the treatment codes H083 and H082. EPA agrees that the use of this parenthetical may cause confusion regarding sequential on-site treatment methods where the approach is simply one step in a multi-step process. Consequently, EPA has removed the parenthetical “as the major component of treatment” from H083 (Air or steam stripping) and H082 (Adsorption).

A commenter requested that EPA clarify the use of the RCRA hazardous waste treatment codes H111 (stabilization or chemical fixation prior to disposal at another site) and H112 (macro-encapsulation prior to disposal at another site) in section 7A column B. The commenter noted that the use of the phrase “at another site” would pose a problem for TRI reporting facilities with on-site landfills, as well as for facilities that use stabilization for the final treatment of their wastes. The commenter recommended that the phrase, “at another site” be removed from the treatment code description in the final rule.

EPA agrees with the commenter and is removing the phrase, “at another site” from the description for treatment codes H111 (Stabilization or chemical fixation prior to disposal) and H112 (Macro-encapsulation prior to disposal). We agree that the use of the phrase “at another site” would unnecessarily restrict the use of these codes to waste intended to go off-site, and believe that the removal of this phrase will avoid confusing reporters who otherwise can use these codes to describe their on-site treatment methods.

Four commenters requested clarification of proposed treatment code H121—Neutralization only. They pointed out that the word “only” would eliminate the use of this code by facilities that use neutralization as one of several steps in a sequence of waste treatment methods, rather than as the single method of treatment. One commenter contended that such a restriction would force facilities that use it as one of several waste treatment method steps, to use treatment code H129—Other treatment. Two commenters requested that EPA consider removing the word “only” from the treatment code description for H121. Another commenter suggested that the word “only” is relevant to reporting under the RCRA Biennial Report and does not serve the purposes of TRI reporting.

EPA agrees with the commenters regarding the use of the word “only” in the description of proposed treatment code H121. We acknowledge that the word could restrict the use of that code unnecessarily and force facilities that use neutralization as one of several steps in a sequence of waste treatment methods to instead use treatment code H129—Other treatment. EPA believes that more useful information can be derived from the proper use of treatment code H121 than H129 by facilities that use neutralization as either their only treatment method or as one of several steps in their waste treatment process. The Agency has thus removed the word, “only” from the H121 treatment code description to be used in section 7A column B.

In accordance with all of the above, this rule finalizes the following list of waste treatment codes for reporting in part II, section 7A, column B of Form R:

- A01 Flare
- A02 Condenser
- A03 Scrubber
- A04 Absorber
- A05 Electrostatic Precipitator
- A06 Mechanical Separation
- A07 Other Air Emission Treatment
- H040 Incineration—thermal destruction other than use as a fuel

- H071 Chemical reduction with or without precipitation
- H073 Cyanide destruction with or without precipitation
- H075 Chemical oxidation
- H076 Wet air oxidation
- H077 Other chemical precipitation with or without pre-treatment
- H081 Biological treatment with or without precipitation
- H082 Adsorption
- H083 Air or steam stripping
- H101 Sludge treatment and/or dewatering
- H103 Absorption
- H111 Stabilization or chemical fixation prior to disposal
- H112 Macro-encapsulation prior to disposal
- H121 Neutralization
- H122 Evaporation
- H123 Settling or clarification
- H124 Phase separation
- H129 Other treatment

2. Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column C—Range of Influent Concentration). As discussed in the proposal to eliminate section 7A, column C—Range of Influent Concentration, EPA explained that column C was implemented in the 1988 rule in which EPA initially published the Form R. 53 FR 4518. During the development of the 1988 rule, EPA believed that concentration information would assist users in determining whether effective treatment methods may be available for wastes containing different amounts of a given chemical because the effectiveness of most treatment methods is concentration-dependent. See Proposed Rule, 52 FR 21152, 21163 (June 4, 1987). Further, an indication of influent concentration would aid in the evaluation of treatment methods across industries and therefore put the data into better perspective. 53 FR 4518. As expressed in the proposal, contrary to the intended uses of this information, EPA has not identified a specific Agency use for the information in section 7A, column C and does not believe that this information is widely used by states or the public.

To date, completion of column C requires facilities to enter a numerical code, from the following list, indicating the concentration range of the EPCRA section 313 chemical as it enters the treatment step:

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

5 = Less than 1 part per billion

In the proposed rule, EPA also asked for comment on whether as an alternative reporting under section 7A, column C should be optional, with facilities having a choice as to whether to report the influent concentration range of the EPCRA section 313 chemical.

Sixteen commenters expressed support for removing the range of influent concentration data element under section 7A column C. One commenter asserted that this change would provide the most significant amount of burden reduction of all the changes proposed in this rule. Several commenters stated that calculating these concentrations for each EPCRA section 313 chemical (or chemical category) in each waste stream is very time consuming and often requires numerous assumptions. One commenter asserted that facilities have spent upwards of 40 hours or more to report on this data element, reflecting the significant burden associated with this requirement.

Commenters also contended that the resulting data are of little value to the general public. One commenter stated that since certain facilities, like power plants, do not normally sample the concentrations of various process streams before treatment occurs, the reported values in column C are estimates that have little value to the general public. Commenters claimed that the removal of the range of influent concentration would not result in a significant loss to the TRI community. In response to this proposed removal of column C of section 7A, one commenter stated that data users can determine from the remaining information in section 7A that a facility has a given chemical in its influent and that it is treating that chemical with a specific treatment method to a specific percentage range of efficiency. Commenters maintained that removing this data element would not impact the usefulness of the waste treatment efficiency estimate in Column D.

Further, several commenters expressed support for entirely removing the data element rather than providing an option to report this data element. They contended that allowing for such an option would create confusion among reporters and inconsistencies in the TRI database. One commenter added that it is unlikely that facilities would provide data should the requirement to report data in Column C be made optional.

EPA agrees with the commenters that removing the data element for range of

influent concentration under section 7A column C would reduce a significant amount of burden for TRI reporters. We acknowledge that a large number of facilities do not collect monitoring data and instead, provide estimates for this data element on influent concentration. The Agency also appreciates the information provided by commenters regarding whether this data element should be made optional. We agree with the commenters that such an option could create confusion among reporters, and due to the inconsistent amount of data that would be reported, we believe that it would provide information of very limited value to the public.

In the proposal, EPA stated its belief that this information is not widely used by states and the public as was anticipated when this data element was first included on Form R. EPA did not receive any comments that opposed the removal of this data element, nor any comments that provided information on the extent of its use or why the data element was important to retain. Therefore, EPA believes that its original 1988 assumptions that this information would be valuable to the public have not been substantiated and has decided to finalize the elimination of this data element.

3. Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column D—Waste Treatment Efficiency Estimate). As discussed in the proposal, the waste treatment efficiency (expressed as a percentage) reported in section 7A column D represents the percentage of the TRI chemical destroyed or removed (based on amount or mass). Under EPCRA section 313(g)(1)(C)(iii), facilities are required to submit an estimate of the treatment efficiency typically achieved by the waste treatment or disposal methods employed for each waste stream. To date, facilities are required to enter an exact percentage in this column of the form. In the proposed rule EPA asked for comment on allowing facilities to report their treatment efficiency as a range instead of an exact percentage. The Agency proposed using the following ranges in column D:

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

This proposed set of ranges was developed by analyzing a subset of the treatment efficiencies reported in reporting year 2002. Most of the efficiencies were between 90% and 100%. The proposed range codes reflect

this reporting trend by grouping three of the codes between 90% and 100% and having the other three codes represent larger ranges between 0% and 90%.

Commenters expressed general support for allowing TRI reporters to use range codes instead of a specific percentage number in section 7A column D. Several commenters claimed that a single value estimate suggests far greater certainty about removal efficiencies than exists in the real world and that it is difficult to estimate a precise percentage for the treatment efficiency of the method used by a facility. Another commenter stated that since electric utility power plants operate in a variety of different ways over the course of a year and because fossil fuels are heterogeneous, a single treatment efficiency value is nothing more than a long-term average value. One commenter contended that the use of ranges is a more reasonable approach, and covers any variance in the treatment efficiencies. The commenter added that the use of ranges would avoid the appearance of a precise estimate when the estimate was actually based on professional judgment.

EPA agrees with the commenters that allowing ranges to be reported in section 7A column D provides a more realistic estimate of on-site waste treatment efficiency. We believe that the use of ranges will provide burden relief to facilities that currently find it difficult to estimate an exact percentage due to the reasons pointed out by commenters regarding facility operations. We do not believe that this change will result in a loss of data since the data element will still consist of an estimate of the treatment efficiency typically achieved by the waste treatment or disposal methods employed for each waste stream. We believe it will instead more accurately reflect the treatment efficiency variations that occur over the course of a facility's yearly operation.

One commenter asserted that the use of range codes for treatment efficiencies would not be a labor saver since its emissions-estimating software already calculates the overall treatment efficiencies. A second commenter stated that in order to report within one of the ranges proposed by EPA, a facility must still undergo the analysis required to obtain an exact percentage. The commenter noted that this is particularly true in the higher ranges, where most reported efficiencies fall. The commenter concluded that burden reduction would not result from this change.

EPA disagrees with these commenters that little, if any, burden would be eliminated as a result of this change.

The majority of commenters supported this change, asserting that it is difficult to derive an exact treatment efficiency percentage estimate for this data element. Even for facilities with access to sophisticated emissions-estimating software that allows faster calculations of emissions estimates, such software does not necessarily capture the uncertainty in the estimate, and even those facilities may realize a reduction in burden through the use of ranges.

One commenter asserted that the proposed change in section 7A column D could create problems with reporting in other sections of Form R. As an example, this commenter referred to problems with the use of ranges in sections 5 and 6 of Form R. According to the commenter, when the ranges in those sections are compared against the values reported in section 8 of Form R, the values do not balance (e.g., often the use of range codes will result in a "NOTE" error on the Facility Data Profile, because the software evidently uses the midpoint of the range).

EPA disagrees with this comment. EPA does not believe that the use of range codes in section 7A column D will affect reporting in other sections of the form, such as sections 5, 6 or 8. However, EPA will review the TRI-ME and data quality software to ensure that this change does not create errors in data processing.

Two commenters opposed the change to range codes in section 7A column D due to general concerns about the use of range codes. One of these commenters stated that the use of range codes in section 7A column D would represent a loss of data. The commenter said that range codes would also limit information without reducing the amount of time and resources a facility would need to estimate its efficiency. The second commenter stated that range codes set a bad precedent and this commenter had difficulty understanding how range codes would reduce burden since facilities would still need to calculate the general efficiency percentage in order to determine the appropriate range.

EPA disagrees with these commenters. Range reporting is already used in a variety of Form R data elements and we do not believe that applying range code reporting to this data element will set any kind of precedent that would degrade the quality of TRI data. As many commenters noted, the data reported in section 7A column D are generally based upon an estimate, rather than specific monitoring data. We believe that the use of range codes in this data element will more accurately reflect an

estimated value without sacrificing data quality.

Two commenters who supported the proposed change expressed concern about the limited number of ranges provided in the high-end of the proposed ranges. They prefer that EPA either allow TRI reporters, particularly incinerators, to report a specific on-site waste treatment efficiency percentage estimate, or that EPA provide additional efficiency percentage range categories at the upper end of the range scale. These commenters claimed that this was necessary to prevent un-permitted incinerators that do not meet RCRA-mandated treatment efficiencies for some chemical wastes, to report in the highest performing efficiency range. According to these commenters, the absence of these additional upper-end range categories would result in accurate but misleading information that would be contrary to the goals of Community Right-to-Know and arguably the Data Quality Act. The commenters asserted that the absence of these additional upper-end ranges would contradict the Agency's attempt to meet the Pollution Prevention Act's goal of allowing the public to understand the ultimate destruction of toxic chemicals. Both commenters recommended that if upper ranges are used instead of allowing reporters to use specific percentages, the ranges should be changed to the following: greater than 99.9% to 99.99%, greater than 99.99% to 99.9999%, and greater than 99.9999%.

EPA appreciates receiving specific recommendations and agrees with the commenters that some adjustments should be made to the proposed upper ranges of treatment efficiency estimates for use in section 7A column D. We have used similar, although not exactly the same treatment efficiency ranges as those proposed by the commenters. The upper-level ranges that EPA used in the final rule include the following: Greater than 99% to 99.99%, greater than 99.99% to 99.9999%, and greater than 99.9999%. These ranges were selected in order to ensure an equal distribution of the range categories, and to allow data users to continue to distinguish the performance of combustion devices in excess of RCRA hazardous waste and TSCA PCB incinerator standards. EPA believes that these revised range categories will provide a means for those TRI reporters who are achieving a high degree of treatment efficiency to communicate that desirable outcome to the public. EPA does not believe that this level of specificity will diminish the burden saving associated with the use of ranges because facilities in the

high-efficiency ranges will have readily-available knowledge about the efficiency of their processes since those high efficiencies are required by other programs' regulatory standards. EPA is not going to allow TRI reporters, however, to report a specific percentage amount in section 7A column D since it could result in two sets of confusing data that would be impossible to combine for any meaningful assessment.

Four commenters supported the proposed change but recommended reducing the total number of ranges used in section 7A column D. These commenters favored reducing the number of ranges in the mid-range. Three of the commenters proposed combining proposed ranges E2 (greater than 95% to 99.9%) and E3 (greater than 90% to 95%), so that there would be one category that covers greater than 90% to 99.9%. One commenter recommended changing the proposed ranges to 0 to 50%, greater than 50% to 90%, greater than 90% to 99%, and greater than 99%.

In response to the comments on modifying the ranges, in this rule EPA has reduced the number of reporting ranges for the lower and mid-ranges from four categories to two categories (greater than 0% to 50% and greater than 50% to 95%). However, the Agency cannot agree to consolidate the upper range codes. If, as the commenters suggested, the Agency consolidated greater than 90% to 99.9% into one range, over half of all respondents would be in that category. By dividing the ranges into greater than 0% to 50%, greater than 50% to 95%, and greater than 95% to 99%, the new categories will represent 18%, 20% and 29%, respectively of all responses. EPA believes these ranges provide a balance that is adequate for realizing burden reduction, while simultaneously distinguishing major differences in treatment performance.

Based on all of the above, EPA is finalizing the following ranges for use in part II, section 7A, column D:

- E1 = greater than 99.9999%
- E2 = greater than 99.99% but less than or equal to 99.9999%
- E3 = greater than 99% but less than or equal to 99.99%
- E4 = greater than 95% but less than or equal to 99%
- E5 = greater than 50% but less than or equal to 95%
- E6 = equal to or greater than 0% but less than or equal to 50%

4. *Part II, Section 7A—On-Site Waste Treatment Methods and Efficiency (Column E—Based on Operating Data).* As discussed in the proposed rule,

column E of section 7A requires facilities to indicate “Yes” or “No” as to whether the waste treatment efficiency reported in section 7A, column D is based on actual operating data such as the case where a facility monitors the influent and effluent wastes from this treatment step. When this data element was first implemented, EPA believed that this information would be valuable to users because it would indicate the relative quality and reliability of the efficiency estimate figure (see 52 FR 21152, 21163). EPA explained in the proposed rule that it is unaware of any significant use of this data. EPA thus proposed eliminating column E of section 7A of Form R.

Several commenters supported the removal of section 7A, column E. Two commenters stated that if the proposed changes to section 7A, columns C (Range of influent concentration) and D (Waste treatment efficiency estimate) were finalized, then the data in column E would not provide meaningful data to the public. Another commenter asserted that most of their treatment efficiencies are based on company-derived estimated efficiencies rather than on monitoring data.

EPA agrees with the commenters that section 7A, column E would not provide meaningful information to the public without specific percentage estimates in section 7A, column D. Since the proposed modification of column D to range codes is being finalized through this rule for the reasons discussed above, and because EPA did not receive any comments on the usefulness of column E data, EPA has finalized the elimination of column E.

5. *Part II, Section 7C—On-Site Recycling Processes.* As discussed in the proposed rule, facilities that conduct on-site recycling currently use sixteen codes (see page 58 of the 2004 TRI Reporting Forms and Instructions (EPA 260-B-05-001, January 2005) at <http://epa.gov/tri/report/index.htm#forms>) to report the particular recycling method(s) applied to each EPCRA section 313 chemical being recycled on-site. For each Form R filed, facilities may report up to ten “R” (On-site recycling) codes, as appropriate.

EPA proposed eliminating these sixteen recycling codes and replacing them with the following three reclamation and recovery management codes used in EPA’s RCRA Biennial Report:

H010 Metal recovery (by retorting, smelting, or chemical or physical extraction)

H020 Solvent recovery (including distillation, evaporation, fractionation or extraction)

H039 Other recovery or reclamation for reuse (including acid regeneration or other chemical reaction process)

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

Fourteen commenters supported reducing the number of on-site recycling codes for use in section 7C. Several commenters stated that such a change would promote consistency between the RCRA hazardous waste and TRI reporting programs. One commenter stated that this change would reduce unnecessary complexity. Several commenters expressed support for the change because they felt that the three proposed codes adequately cover the range of recycling activities that might be undertaken at a facility. In addition, the vast majority of commenters contended that the change would not compromise the utility of TRI program data.

EPA appreciates receiving comments that confirmed the Agency’s belief that the use of fewer codes will simplify reporting in section 7C of Form R. Further, by making the TRI reporting process more consistent with the RCRA biennial reporting process we will facilitate even greater use of data in both the TRI and RCRA programs. Based on these comments, EPA has finalized this proposed change. However, in order to avoid software reprogramming costs, the Agency has decided to maintain a three digit numerical code for this data element, and thus, will not use the first zero in each of the three RCRA reclamation and recovery management codes. Otherwise, the codes will conform with the reclamation and recovery management codes in the RCRA Biennial Report. The codes to be used in part II, section 7C of Form R will thus be as follows:

H10 Metal recovery (by retorting, smelting, or chemical or physical extraction)

H20 Solvent recovery (including distillation, evaporation, fractionation or extraction)

H39 Other recovery or reclamation for reuse (including acid regeneration or other chemical reaction process)

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

As discussed in the proposal, section 6607(d) of the Pollution Prevention Act (PPA) requires that reporters be

provided the opportunity to include “additional information regarding source reduction, recycling, and other pollution control techniques” with their reporting form. 42 U.S.C. 13106(d). At the present time, EPA requires each facility to answer a “yes/no” question to indicate whether the facility has included such information. Facilities with such information then attach a physical copy describing their activity. Because such information is long and in varied forms, it has not been coded into the TRI database. This lack of coding creates a large potential burden for users of information seeking to identify innovative programs or processes. Accordingly, EPA proposed minor changes to this data element to improve public access to such information.

As explained in the proposal, an optional text box feature would be added to EPA’s TRI–ME reporting software to enable reporting facilities to submit a brief description of their applicable source reduction, recycling, and other pollution control techniques and activities. In addition, reporters would be provided with instructions in EPA’s “Toxic Chemical Release Inventory Reporting Forms” on how to denote on their Form R submission that they are providing a brief summary and/or more detailed information on one of these activities. Form R would be modified to include a checkbox allowing facilities that provide additional information to check “yes” if they use the text box feature or send EPA additional information in hardcopy. Facilities that do not wish to provide additional information would no longer need to check “no” in section 8.11.

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

Several commenters supported the removal of the current “yes/no” question in section 8.11 of Form R, and the addition of an optional text box feature in EPA’s TRI–ME reporting software. As one commenter stated, TRI reporters have up until now been forced to submit additional information about their source reduction, recycling, and other pollution prevention techniques separately on paper, rather than electronically. The addition of an electronic text box would allow facilities to more easily submit such

information. Another commenter remarked that such additional information was not readily accessible in the past since it was only available on paper.

EPA agrees with commenters that the removal of the current question in section 8.11 and the replacement of it with an optional electronic text box for reporting additional information about source reduction, recycling, and other pollution prevention techniques will increase the accessibility and usefulness of such information. We also believe that the use of an electronic text box, as opposed to paper submissions, will increase the likelihood that reporters will submit such information since it will be easier to do so. Accordingly, EPA has finalized this section of the proposal.

One commenter did oppose this change in 8.11, claiming that while the text box feature is optional, many reporters will feel compelled to enter information. The commenter contended that compliance issues could arise if the information submitted was not completely accurate or precise and this could result in discouraging submission of such information.

EPA disagrees with this commenter. Reporters have never been required to include additional information in section 8.11, nor would they be required to do so under this change from paper to electronic submission. In fact, under the proposed change, section 8.11 would be entirely optional since those who do not wish to include additional information would no longer need to check the "no" box. Instructions for using the text box will clearly state that its use is optional. While EPA does not believe that compliance issues would arise from use of the text box, the same compliance issues triggered by inaccurate information could have arisen under the current paper-only method of submission.

VI. Technical Modifications to 40 CFR 372.85

As discussed in the proposed rule, in addition to streamlining the TRI Reporting Forms, EPA also proposed two technical corrections to 40 CFR 372.85.

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

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

EPA received one comment on this section of the proposal. The commenter expressed concern that the proposed change could be misread to imply that web-based reporting is the only available reporting option.

This modification should not be construed to imply that web-based reporting will be the only reporting option. This modification simply updates the method by which a facility can obtain a copy of the TRI Forms. After a facility obtains and completes its form(s), web-based reporting can have huge potential advantages for both respondents and the Agency, allowing respondents to receive pre-populated forms and the Agency to reduce processing costs by over 90%. EPA recognizes, however, that there may be facilities that do not yet have suitable internet connectivity. Accordingly, the modification to section 372.85(a) does not require reporting by any specific method.

The 1991 rule also added a list describing the Form R data elements at 40 CFR 372.85(b). This list includes Paragraph 18, which describes a pollution prevention data element. This data element was optional and set to expire after the 1990 reporting year. After the 1991 rule was finalized, EPA incorporated mandatory pollution prevention reporting elements pursuant to the Pollution Prevention Act of 1990. 57 FR 22330. EPA believes the presence of the outdated Paragraph 18 element in the regulations is unnecessary since it has expired. Further, the Agency is concerned that its continued presence in the regulations may lead to confusion about whether pollution prevention data are required elements of the Form R. Therefore, EPA is deleting 40 CFR 372.85(b)(18) for the purposes of order and clarity. This action will not affect the reporting obligations found in section 6607 of the PPA; facilities must continue to report pollution prevention information as collected in part II, section 8 of the Form R.

VII. Regulatory Assessment Requirements

A. Executive Order 12866: Regulatory Planning and Review

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

To estimate the cost savings, incremental costs, economic impacts and benefits from this rule to affected regulated entities, EPA completed an economic analysis for this rule. Copies of this analysis (entitled "Economic Assessment of the Burden Reduction—Modifications to Form R—final Rule") have been placed in the TRI docket for public review.

1. Methodology. To estimate the cost savings, incremental costs, economic impacts and benefits of this rule, the Agency estimated both the cost and burden of completing the TRI reporting forms, as well as the number of affected entities. The Agency used the 2002 reporting year for TRI data as a basis for these estimates. First, the Agency identified the number of PBT and non-PBT respondents completing Form R and non-PBT respondents for Form A (PBT respondents are currently ineligible to use Form A). Then the Agency determined the unit burden

savings and cost savings per form using an engineering analysis. Burden savings for the various forms were calculated separately because not all final modifications appear on every form. The total burden and cost savings

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

2. Cost & Burden Savings Results. Table 1 and Table 2 summarize the number of 2002 first and subsequent year Forms R and A submissions.

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

Number of 2002 forms	Form type	Burden savings per form R (hours)	Total burden savings (hours)	Cost saving per form R	Total cost savings
458	Form R PBT	2.17	996	\$97.93	\$44,852
880	Form R non-PBT	1.37	1,203	61.99	54,554
324	Form A non-PBT	0.52	168	22.31	7,227
Total .....	.....	.....	2,367	.....	106,634

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

Number of 2002 forms	Form type	Burden savings per form R (hours)	Total burden savings (hours)	Cost saving per form R	Total cost savings
15,085	Form R PBT	0.78	11,837	\$33.67	\$507,856
65,006	Form R non-PBT	0.56	36,564	24.73	1,607,661
11,594	Form A	0.11	1,292	3.69	42,797
Total .....	.....	.....	49,693	.....	2,158,314

EPA estimates that the total annual burden savings for this rule are 52,060 hours. EPA estimates that the total annual cost savings for this rule are \$2.26 million. Average annual cost savings for facilities submitting Form Rs or Form As are between \$4 and \$100 per form or between \$12 and \$300 per facility.

3. Impacts on Data. EPA evaluated the potential impacts on data from removing or simplifying these specific data fields and determined that the risk of significant data loss is minimal. In the case of some elements (e.g., latitude and longitude information), reporting is being discontinued because information already exists or can be developed from other EPA data systems. In other cases (e.g., changes in waste management or recycling reporting codes), streamlining is being proposed to bring reporting categories in line with existing practices of other Agency program offices which should ultimately increase the utility of the information. Range reporting options being considered include intervals selected to maintain relatively equal population subcategories which should maintain the utility of the data while minimizing the potential uncertainty associated with individual values. The Agency also conducted outreach to potentially affected stakeholders to solicit any specific uses of the fields being removed or

simplified. Based on that outreach, the Agency believes the potential for significant data loss to the public to be minimal.

B. Paperwork Reduction Act

We have prepared a document estimating the recordkeeping and reporting burden savings associated with this rule. We calculate the reporting and recordkeeping burden reduction for this rule as 52,060 hours and the estimated cost savings as \$2.26 million. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. That includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility

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

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

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

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

significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

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

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

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The Agency's analysis of compliance with the Unfunded Mandates Reform Act (UMRA) of 1995 found that today's rule imposes no enforceable duty on any state, local or tribal government or the private sector. This rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments or the private sector. In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The rule merely streamlines reporting requirements for an existing program. Therefore, we have

determined that today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

E. Executive Order 13132: Federalism

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

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" 65 FR 67249 (November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the federal Government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175.

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

"Protection of Children From Environmental Health Risks and Safety Risks," 62 FR 19885 (April 23, 1997), applies to any rule that EPA determines (1) "economically significant" as

defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potential effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Environmental Justice

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations", EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure

that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

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

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 12, 2005.

List of Subjects in 40 CFR Part 372

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

Dated: June 30, 2005.

Stephen L. Johnson,
Administrator.

■ For the reasons discussed in the preamble, the Environmental Protection Agency 40 CFR part 372 is 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 E—[Amended]

■ 2. Section 372.85 is amended as follows:

- i. Revise paragraph (a).
- ii. Remove paragraph (b)(6).

■ iii. Redesignate paragraphs (b)(7) through (b)(18) as paragraphs (b)(6) through (b)(17).

■ iv. Revise the newly-designated paragraph (b)(6).

■ v. Remove the newly-designated paragraph (b)(16)(iii).

■ vi. Redesignate the newly-designated paragraphs (b)(16)(iv) and (b)(16)(v) as paragraphs (b)(16)(iii) and (b)(16)(iv).

■ vii. Revise the newly-designated paragraph (b)(16)(iii).

■ viii. Remove the newly-designated paragraph (b)(17).

372.85 Toxic chemical release reporting form and instructions.

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

(b) * * *

(6) Dun and Bradstreet identification number.

* * * * *

(16) * * *

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

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§ 372.95 [Amended]

■ 3. Section 372.95 is amended as follows:

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

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

[FR Doc. 05-13486 Filed 7-11-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 375

[Docket No. FMCSA-97-2979]

RIN 2126-AA32

Transportation of Household Goods; Consumer Protection Regulations; Final Rule

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) adopts

as final its interim regulations at 49 CFR part 375 published in the **Federal Register** on June 11, 2003 (68 FR 35064) and subsequent technical amendments published on March 5, 2004 (69 FR 10570), April 2, 2004 (69 FR 17313), and August 5, 2004 (69 FR 47386). The final rule specifies how motor carriers transporting household goods by commercial motor vehicle in interstate commerce must assist their individual customers who ship household goods. As no further amendments are necessary, the interim regulations at part 375 are adopted without change.

DATES: Effective August 11, 2005.

Petitions for Reconsideration must be received by the agency not later than August 11, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Dunlap, Acting Chief, Commercial Enforcement Division (MC-ECC), (202) 385-2428, Federal Motor Carrier Safety Administration, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024.

Docket: For access to the docket to read background documents or comments received on the interim final regulations and subsequent amendments, including a Record of Meeting and all correspondence referenced in this document, go to <http://dms.dot.gov> at any time or to Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477). This statement is also available at <http://dms.dot.gov>.

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

The Interstate Commerce Commission Termination Act of 1995 (ICCTA) (Pub. L. 104-88, 109 Stat. 803) provides that "[t]he Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter 1 of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of