EPA-APPROVED IDAHO REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
561	General Rules	4/11/06, 5/1/94, 3/15/02	11/26/2010 [Insert page number where the document begins]	
*	* * *	*	* *	*
575	Air Quality Standards and Area Classification.	4/11/06	11/26/2010 [Insert page number where the document begins]	
*	* * *	*	* *	*
581	Prevention of Significant Deterioration (PSD) Increments.	4/11/06, 5/3/03, 7/1/97, 5/1/94.	11/26/2010 [Insert page number where the document begins]	
*	* * *	*	* *	*
679	Averaging Period	4/11/06, 5/1/94	11/26/2010 [Insert page number where the document begins]	
*	* * *	*	* *	*
700	Particulate Matter Process Weight Limitations.	5/3/03, 4/5/00	11/26/2010 [Insert page number where the document begins]	
*	* * *	*	* *	*
725	Rules for Sulfur Content of Fuels	5/8/09, 5/1/94	11/26/2010 [Insert page number where the document begins]	

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[FR Doc. 2010–29628 Filed 11–24–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2010–0006; FRL–9231–5]

RIN 2025–AA28

Addition of National Toxicology Program Carcinogens; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding 16 chemicals to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and section 6607 of the Pollution Prevention Act of 1990 (PPA). These 16 chemicals have been classified by the National Toxicology Program in their Report on Carcinogens as "reasonably anticipated to be a human carcinogen." EPA has determined that these 16 chemicals meet the EPCRA section 313(d)(2)(B) criteria because they can reasonably be anticipated to cause cancer in humans.

DATES: This final rule is effective November 30, 2010, and shall apply for the reporting year beginning January 1, 2011 (reports due July 1, 2012).

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–TRI–2010–0006. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Environmental Analysis Division, Office of Information Analysis and Access (2842T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–0743; fax number: 202–566–0677; e-mail: *bushman.daniel@epa.gov,* for specific information on this notice. For general information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, toll free at (800) 424–9346 or (703) 412–9810 in Virginia and Alaska or toll free, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use any of the chemicals included in this final rule. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially affected entities
Industry	Facilities included in the following NAICS manufacturing codes (corresponding to SIC codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211112*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512220, 512230*, 519130*, 541712*, or 811490*. * Exceptions and/or limitations exist for these NAICS codes. Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (correspond to SIC 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (correspond to SIC 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221119, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (correspond to SIC 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC 5171, Petroleum Bulk Terminals and Plants); or 562112 (Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 et seq.) (correspond to SIC 4953, Refuse Systems).
Federal Government	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Some of the entities listed in the table have exemptions and/or limitations regarding coverage, and other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Introduction

A. What is the statutory authority for this final rule?

This rule is issued under EPCRA section 313(d) and section 328, 42 U.S.C. 11023 *et seq*. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986.

B. What is the background for this action?

Section 313 of EPCRA, 42 U.S.C. 11023, requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in amounts above reporting threshold levels to report their environmental releases and other waste management quantities of such chemicals annually. These facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the PPA, 42 U.S.C. 13106. Congress established an initial list of toxic chemicals that comprised more than 300 chemicals and 20 chemical categories.

EPCRA section 313(d) authorizes EPA to add or delete chemicals from the list and sets criteria for these actions. EPCRA section 313(d)(2) states that EPA may add a chemical to the list if any of the listing criteria in Section 313(d)(2) are met. Therefore, to add a chemical, EPA must demonstrate that at least one criterion is met, but need not determine whether any other criterion is met. Conversely, to remove a chemical from the list, EPCRA section 313(d)(3) dictates that EPA must demonstrate that none of the listing criteria in Section 313(d)(2) are met. The EPCRA section 313(d)(2) criteria are:

(A) The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.

(B) The chemical is known to cause or can reasonably be anticipated to cause in humans—

(i) cancer or teratogenic effects, or

(ii) serious or irreversible—

(I) reproductive dysfunctions,

(II) neurological disorders,

(III) heritable genetic mutations, or

(IV) other chronic health effects.

(C) The chemical is known to cause or can be reasonably anticipated to cause, because of

(i) its toxicity,

(ii) its toxicity and persistence in the environment, or

(iii) its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section.

EPA often refers to the section 313(d)(2)(A) criterion as the "acute human health effects criterion;" the section 313(d)(2)(B) criterion as the "chronic human health effects criterion;" and the section 313(d)(2)(C) criterion as the "environmental effects criterion."

EPA has published in the **Federal Register** of November 30, 1994 (59 FR 61432) a statement clarifying its interpretation of the section 313(d)(2) and (d)(3) criteria for modifying the section 313 list of toxic chemicals.

III. Summary of Proposed Rule

A. What chemicals did EPA propose to add to the EPCRA section 313 list of toxic chemicals?

As discussed in the proposed rule (75 FR 17333, April 6, 2010) EPA proposed to add 16 chemicals to the EPCRA section 313 list of toxic chemicals. These 16 chemicals had been classified as "Reasonably Anticipated To Be Human Carcinogen" by the National Toxicology Program (NTP) in their 11th Report on Carcinogens (RoC) document. In addition, based on a review of the available production and use information, EPA determined that these 16 chemicals are expected to be manufactured, processed, or otherwise used in quantities that would exceed the EPCRA section 313 reporting thresholds. The NTP is an interagency program within the Department of Health and Human Services (DHHS) headquartered at the National Institute of Environmental Health Sciences (NIEHS) of the National Institutes of Health (NIH). As part of their cancer evaluation work, the NTP periodically publishes the RoC document which contains cancer classifications from the NTP's most recent chemical evaluations as well as the classifications from previous versions of the RoC. There is an extensive review process for the RoC which includes evaluations by scientists from the NTP, other Federal health research and regulatory agencies (including EPA), and nongovernmental institutions. The RoC review process also includes external peer review and several opportunities for public comment.

B. What was EPA's rationale for proposing to list the NTP carcinogens?

As EPA stated in the proposed rule (75 FR 17334, April 6, 2010), the NTP RoC document undergoes significant scientific review and public comment and mirrors the review EPA has historically done to assess chemicals for listing under EPCRA section 313 on the basis of carcinogenicity. The conclusions regarding the potential for chemicals in the NTP RoC to cause cancer in humans are based on established sound scientific principles. EPA believes that the NTP RoC is an excellent and reliable source of information on the potential for chemicals covered therein to cause cancer in humans. Based on EPA's review of the data contained in the 11th NTP RoC (Ref. 1) for the 16 chemicals, the Agency agreed that the chemicals can reasonably be anticipated to cause cancer. Therefore, EPA determined that the evidence was sufficient for listing all of the chemicals in the proposed rule on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(B) based on the available carcinogenicity data for the chemicals as presented in the 11th RoC (Ref. 2).

IV. Summary of Final Rule

EPA is finalizing the addition of the 16 chemicals to the EPCRA section 313 list of toxic chemicals. This final rule contains no changes to the list of chemicals EPA included in the proposed rule. EPA has determined that each of these 16 chemicals meets the listing criteria under EPCRA section 313(d)(2)(B). The chemicals being added as individual chemical listings on the EPCRA section 313 list in this final rule include the following: 1-amino-2,4-dibromoanthraquinone; 2,2-bis(bromomethyl)-1,3-propanediol; furan; glycidol; isoprene; methyleugenol; o-nitroanisole; nitromethane; phenolphthalein; tetrafluoroethylene; tetranitromethane; and vinyl fluoride. In addition, the following chemicals are being added to the EPCRA section 313 chemical category for polycyclic aromatic compounds (PACs): 1,6-dinitropyrene; 1,8-dinitropyrene; 6-nitrochrysene; and 4-nitropyrene. The PACs category is a category of persistent, bioaccumulative, toxic (PBT) chemicals and as such has a lower reporting threshold of 100 pounds (40 CFR 372.28(a)(2)).

V. What comments did EPA receive on the Proposed Rule and what are EPA's responses to those comments?

EPA received nine comments on the proposed rule to add the 16 NTP carcinogens to the EPCRA section 313 list. Seven of the comments were supportive of EPA's proposed listings while two comments contained objections to the addition of these chemicals. The commenters that supported the proposed rule included; five individuals, OMB Watch, and PT AirWatchers. The two commenters that did not support the proposed rule were the Chemical Products Corporation and the International Institute of Synthetic Rubber Producers. The most significant comments are summarized and responded to below. The complete set of comments and EPA's responses can be found in the response to comment document in the docket for this rulemaking (Ref. 3).

The Chemical Products Corporation provided extensive comments on their review of the NTP technical report on anthraquinone, a chemical that was not included in those EPA proposed to list. The comments documented the issues and problems they believe exist with that technical report and their attempts to have the report revised. Their issues primarily concerned the identity of the materials tested. Based on their review and experience with NTP technical report for anthraquinone, the commenter believes that the NTP technical reports that were a primary basis for the NTP classification of the chemicals in the proposed rule as "reasonably anticipated to be a human carcinogen" should not be relied upon by EPA for making decisions regarding the addition of chemicals to the EPCRA section 313 toxic chemical list. The commenter also suggested that EPA rely on the International Agency for Research on Cancer (IARC) Group 2A list (i.e., chemicals classified as probably carcinogenic to humans) and add only those chemicals which have IARC Group 2A classifications. That would include two chemicals, glycidol and vinyl fluoride out of the 16 at issue in this action.

EPA notes that the commenter is questioning the validity of an NTP technical report that is unrelated to any of the chemicals that EPA proposed for listing. The report in question concerns anthraquinone, a chemical that was not the subject of the proposed rule, is not on the EPCRA section 313 list of toxic chemicals, and is not classified as a carcinogen in the NTP's 11th Report on Carcinogens. The commenter believes that the scientific validity of all of the NTP technical reports is questionable because of problems they have with one of the NTP technical reports. As this report is outside the scope of the proposed rule, EPA is not addressing the specific issues the commenter has with the report or the NTP's responses to the commenter. EPA does not believe that issues raised about one NTP technical report mean that the scientific validity of all NTP technical reports should be in question. As EPA discussed in the proposed rule, the NTP review process for the Report on Carcinogens is extensive and includes both peer review and public comment (75 FR 17335, April 6, 2010). In addition, as discussed in the proposed rule (75 FR 17336, April 6, 2010), EPA reviewed the NTP chemical profiles and supporting materials for each chemical proposed for listing. The commenter has provided no data that would suggest that the NTP reports for the 16 chemicals being added to the EPCRA section 313 list are flawed or any data that would suggest the chemicals do not meet the EPCRA section 313(d)(2)(B) listing criteria. The Agency finds no specific basis to question any of the NTP documents used to support the listing of the 16 chemicals included in this rule based on these comments.

Regarding the commenter's suggestion that EPA only add those chemicals that have been classified as Group 2A (probably carcinogenic to humans) by IARC, EPA notes that the scientific data for a number of chemicals classified as Group 2B (possibly carcinogenic to humans) under IARC has been found to be sufficient to support listing under EPCRA section 313 (see for example, 59 FR 1788, January 12, 1994). These determinations were the result of a case-by-case analysis of the available cancer data, they were not based solely on the IARC cancer classification. Thus, EPA would not limit the listing of carcinogens to only chemicals with IARC Group 2A classifications. Even for IARC 2A classified chemicals, EPA would review the available cancer data before making an EPCRA section 313 listing determination.

The International Institute of Synthetic Rubber Producers, Inc. (IISRP) stated that they found that overall there are no factual inaccuracies in EPA's toxicology summaries, but that there were interpretations of the data they believed should be noted, plus certain environmental data which they thought should be included in the record. The IISRP noted that the proposed rule refers to similarities between isoprene and butadiene and stated that isoprene also differs from 1,3-butadiene in that for isoprene, there have been no elevations in thymic lymphoma in exposed mice at any concentrations tested. The commenter stated that the absence of this response in mice with isoprene is noteworthy since the basis of butadiene's IARC Group1 classification

is all hemolytic organs (which the commenter stated would include lymphomas). The commenter stated that the various other tumor types occurring with isoprene or butadiene in mice are not seen in epidemiology studies of butadiene-exposed populations. The commenter also stated that there were no elevations in tumors found in mice at the lowest exposure tested (10 ppm; 28 mg/m^3) and this coupled with the fact that isoprene is produced endogenously in humans suggests that there is a threshold for such a response. The commenter stated that this information supports the IARC 2B categorization of isoprene as a "possible" human carcinogen rather than the "reasonably anticipated" categorization by NTP, which triggers the TRI listing.

The IISRP also stated that EPA omitted certain environmental data that should be included in the record. The commenter stated that IARC notes that isoprene occurs in the environment as emissions from vegetation, particularly from deciduous forests. The commenter cited sources that state that isoprene is the dominant hydrocarbon released by vegetation in most ecosystems. The commenter also cited sources that state that isoprene release by vegetation, particularly trees, exceeds anthropogenic hydrocarbon release to the atmosphere. The commenter stated that isoprene has also been found in tobacco smoke, gasoline, turbine and automobile exhaust and in emissions from wood pulping, biomass combustion and rubber abrasion.

EPA disagrees with the IISRP that EPA should use the IARC "possible" human carcinogen classification for isoprene rather than the "reasonably anticipated" categorization by NTP. Since isoprene is an analog of 1,3-butadiene, the NTP provided data on 1,3-butadiene under the section on "Additional Information Relevant to Carcinogenicity" (Ref. 4). The commenter pointed out differences between isoprene and butadiene, however, the NTP also recognizes that there are differences in the data for isoprene and 1,3-butadiene as evidenced by the NTP's classification of 1,3-butadiene as a "known to be a human carcinogen" (Ref. 2). For isoprene, the NTP found evidence of tumor formation at multiple organ sites in multiple species of experimental animals (Ref. 4). Nothing in the commenter's statements leads EPA to believe that isoprene is not correctly classified by NTP as "reasonably anticipated to be a human carcinogen" or that the data underlying that classification suggests the isoprene does not meet the EPCRA section 313(d)(2)(B) listing criteria.

EPA also disagrees with IISRP's characterization that the NTP classification is a trigger for TRI listing. According to EPCRA § 313(d)(2), a chemical may be added to the TRI list if it "is known to cause or can reasonably be anticipated to cause in humans cancer." Particular listings by scientific bodies, such as the NTP, are useful in determining whether that standard has been met but are not necessarily triggers for listing under EPCRA. EPA does not take an IARC Group 2B classification to automatically mean that a chemical would not meet the EPCRA section 313 listing criteria. EPA again notes that in previous EPCRA section 313 listing decisions, the scientific data for a number of chemicals classified as Group 2B (possibly carcinogenic to humans) under the IARC has been found to be sufficient to support listing under EPCRA section 313 (see for example potassium bromate, sodium o-phenylphenoxide, and other chemicals in 59 FR 1788, January 12, 1994). These determinations were the result of a case-by-case analysis of the available cancer data; they were not based solely on the IARC cancer classification. Thus, EPA would not limit the listing of carcinogens to only chemicals with IARC Group 2A classifications. Even for IARC 2A classified chemicals, EPA would review the available cancer data before making a listing determination.

The environmental data that the commenter suggests is missing from the rulemaking record actually is discussed in detail in the supporting documents cited in the proposed rule. For example, reference number 13 in the proposed rule (Ref. 4 in today's final rule) contains the following discussion:

Exposure

Isoprene is formed endogenously in humans and is generally the major hydrocarbon (up to 70% in human breath) (Gelmont *et al.* 1981). Concentrations in blood range from 15 to 70 nmol/L (1.0 to 4.8 μg/L) (Cailleux *et al.* 1992). Humans produce isoprene endogenously at a rate of 0.15 μmol/kg/h, equivalent to approximately 17 mg/day for a 150-lb (70-kg) person (Taalman 1996). Endogenous production rates reported for rats and mice are 1.9 and 0.4 μmol/kg/h, respectively (Peter *et al.* 1987). Ambient air concentrations of isoprene are generally less than 10 ppb or approximately 0.03 mg isoprene/m3. Based on estimated human intake of 15 to 20 m^3 air per day, ambient air would contribute less than 0.45 to 0.6 mg/day to daily isoprene exposure.

NIOSH collected data on potential exposure to isoprene in the National Occupational Hazard Survey (NOHS) from 1972 to 1974 (NIOSH 1976) and in the National Occupational Exposure Survey (NOES) from 1981 to 1983 (NIOSH 1990). The first survey (NIOSH 1976) indicated that 58,000 employees in over 30 different industries were potentially exposed to isoprene. The more limited later survey of six industries showed that approximately 3,700 workers were potentially exposed to isoprene between 1981 and 1983 (NIOSH 1990). Isoprene is emitted from plants and trees and is widely present in the environment at low concentrations (Taalman 1996). Isoprene global emissions, estimated at 175 to 503 million Mg per year, represent approximately 44 to 51% of total global natural volatile organic compound emissions (Guenther *et al.* 1995). The average biogenic emission rate factor for isoprene in the United States is approximately 3 mg/m2/h. Isoprene concentrations in biogenic emissions range from 8% to 91% of total VOCs, with a 58% average. Since isoprene biosynthesis is associated with photosynthesis, isoprene emissions are negligible at night (Guenther *et al.* 1994). The south central and southeastern areas of the United States have the highest biogenic emissions. Summertime isoprene emissions are highest in each region and account for more than 50% of annual biogenic emissions (Lamb *et al.* 1993).

Sources of anthropogenic releases of isoprene to the atmosphere include ethylene production by cracking naphtha, wood pulping, oil fires, wood-burning stoves and fireplaces, other biomass combustion, tobacco smoking (3,100 μg/cigarette), gasoline, and exhaust of turbines and automobiles (HSDB 2000).

Reported U.S. ambient air concentrations of isoprene range from 0.003 to 0.06 mg/m^3 (1 to 21 ppb), with isoprene representing less than 10% of NMHCs (Arnts and Meeks 1980, Altschuller 1983, Lawrimore and Aneja 1997, Hagerman *et al.* 1997). During stagnation conditions, biogenic hydrocarbons may contribute more to total atmospheric hydrocarbons (Altschuller 1983).

Foods of plant origin would be expected to be a source of daily exposure to isoprene since it is emitted by agricultural crops and is the basic structural unit in countless natural products found in foods such as terpenes and vitamins A and K (IARC 1994). Its occurrence has been reported in the essential oil of oranges, in the fruit of hops, and in the root of carrots (Duke 1992).

The primary source of isoprene in indoor air is environmental tobacco

smoke. Isoprene was found to be the major component of hydrocarbons in the air of a smoky café (10 smoking patrons, 10 not smoking) (16.7%) and sidestream smoke (29.2%) (Barrefors and Petersson 1993). A monitoring survey in November 1992 in homes and workplaces in the greater Philadelphia area found mean isoprene concentrations in personal air samples of 4.65 μg/m^3 in nonsmoking homes (n = 60), 18.15 μg/m^3 in smoking homes (n = 29), 5.29 μg/m^3 in nonsmoking workplaces (n = 51), and 22.80 μg/m^3 in smoking workplaces (n = 28). Differences in isoprene concentrations in personal air between nonsmoking and smoking sites were highly significant (Heavner et al. 1996). Another survey reported median summertime isoprene concentrations of 2.90 μg/m^3 in indoor air (n = 3; no information on whether occupants were smokers or nonsmokers) compared to 0.40 μg/m^3 in outdoor air (n = 1) in the Lower Rio Grande Valley of Texas (Muerjee et al. 1997).

As the text above clearly shows, information on environmental data was not omitted from the rulemaking record. However, as this information was not directly related to the hazard determination for isoprene being used as a basis to list the chemical under EPCRA section 313, it was not included in the text of the Federal Register notice for the proposed rule.

VI. References

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–TRI–2010–0006. The public docket includes information considered by EPA in developing this action, including the documents listed below, which are electronically or physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are electronically or physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not electronically or physically located in the docket, please consult the person listed in the above **FOR FURTHER INFORMATION CONTACT** section.

1. USEPA, OEI. Memorandum from Mark Miller, Ph.D., Toxicologist, Analytical Support Branch to Nicole Paquette, Ph.D., Chief, Analytical Support Branch. January 28, 2010. Subject: Review of National Toxicology Program (NTP) Cancer Classification Data for Sixteen Chemicals.

2. NTP, 2005. National Toxicology Program. Introduction: Report on Carcinogens, Eleventh Edition. Released January 31, 2005. U.S. Department of Health and Human Services, Public Health Service, National Toxicology Program, Research Triangle Park, NC 27709.

3. USEPA, OEI. Response to Comments Received on the April 6, 2010, **Federal Register** Proposed Rule (75 FR 17333): Addition of National Toxicology Program Carcinogens; Community Right-to-Know Toxic Chemical Release Reporting. U.S. Environmental Protection Agency, Office of Environmental Information, Office of Information Analysis and Access. August 12, 2010.

4. NTP, 2005. National Toxicology Program. 11th Report on Carcinogens—Isoprene Substance Profile. Released January 31, 2005. U.S. Department of Health and Human Services, Public Health Service, National Toxicology Program, Research Triangle Park, NC 27709.

VII. Statutory and Executive Order reviews associated with this action?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action." The Office of Management and Budget (OMB) determined that this action raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to OMB for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

This final rule does not contain any new information collection requirements that require additional approval by the OMB under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et. seq.* Currently, the facilities subject to the reporting requirements under EPCRA 313 and PPA 6607 may use either the EPA Toxic Chemicals Release Inventory Form R (EPA Form 1B9350–1), or the EPA Toxic Chemicals Release Inventory Form A (EPA Form 1B9350- 2). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above threshold quantities and meets certain other criteria. For the Form A, EPA established an alternative threshold for facilities with low annual reportable amounts of a listed toxic chemical. A facility that meets the appropriate reporting thresholds, but estimates that the total annual reportable amount of the chemical does not exceed 500 pounds per year, can take advantage of an alternative manufacture, process, or otherwise use threshold of 1 million pounds per year of the chemical, provided that certain conditions are met, and submit the Form A instead of the Form R. In addition, respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322 42 U.S.C. 11042: 40 CFR part 350.

OMB has approved the reporting and recordkeeping requirements related to Form R, supplier notification, and petitions under OMB Control number 2025–0009 (EPA Information Collection Request (ICR) No. 1363.15); those related to Form A under OMB control number 2025–0010 (EPA ICR No. 1704.09); and those related to trade secret designations under OMB Control 2070–0078 (EPA ICR No. 1428). As provided in 5 CFR 1320.5(b) and 1320.6(a), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers relevant to EPA's regulations are listed in 40 CFR part 9, 48 CFR chapter 15, and displayed on the information collection instruments (e.g., forms, instructions).

For Form R, EPA estimates the industry reporting and recordkeeping burden for collecting this information to average, in the first year, approximately $4,615 per Form R (for a total first year cost of $858,299 based on 16,069 total burden hours). In subsequent years, the burden for collecting this information is estimated to average $1,553 per Form R (for a total cost of $288,902 based on 5,517 total burden hours). These estimates include the time needed to become familiar with the requirement (first year only); review instructions; search existing data sources; gather and maintain the data needed; complete and review the collection information; and transmit or otherwise disclose the information. The actual burden on any facility may be different from this estimate depending on the complexity of the facility's operations and the profile of the releases at the facility. Upon promulgation of a final rule, the Agency may determine that the existing burden estimates in the ICRs need to be amended in order to account for an increase in burden associated with the

final action. If so, the Agency will submit an information collection worksheet (ICW) to OMB requesting that the total burden in each ICR be amended, as appropriate.

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

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A business that is classified as a "small business" by the Small Business Administration at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

Of the 109 entities estimated to be impacted by this rule, 41 are small businesses. Of the affected small businesses, all 41 have cost impacts of less than 1% in both the first and subsequent years of the rulemaking. No small businesses are projected to have a cost impact of 1% or greater. In the first year, of the 41 estimated cost impacts, there is a maximum impact of 0.616% and a minimum impact of less than 0.001%. Facilities eligible to use Form A (those meeting the appropriate activity threshold which have 500 pounds per year or less of reportable amounts of the chemical) will have a lower burden. No small governments or small organizations are expected to be affected by this action. Thus this rule is not expected to have a significant adverse economic impact on a substantial number of small entities. A more detailed analysis of the impacts on small entities is located in EPA's economic analysis support document.

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

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA's economic analysis indicates that the total cost of this rule is estimated to be $859,072 in the first year of reporting. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Small governments are not subject to the EPCRA section 313 reporting requirements.

E. Executive Order 13132 (Federalism)

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

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities.

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

This action is not a "significant energy action" as defined in Executive Order 13211 (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. Further, we have concluded that this action is not likely to have any adverse energy effects because it does not impact the production 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, 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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rule adds additional chemicals to the EPCRA section 313

reporting requirements. By adding chemicals to the list of toxic chemicals subject to reporting under section 313 of EPCRA, EPA would be providing communities across the United States (including minority populations and low-income populations) with access to data which they may use to seek lower exposures and consequently reductions in chemical risks for themselves and their children. This information can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment. Therefore, the informational benefits of the rule will have a positive impact on the human health and environmental impacts of minority populations, low-income populations, and children.

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 November 30, 2010.

List of Subjects in 40 CFR Part 372

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

Dated: November 18, 2010.

Lisa P. Jackson,

Administrator.

■ Therefore, 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.

■ 2. In § 372.28 the table in paragraph (a)(2) is amended under the heading "Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below)" by adding four new entries in alphabetical order to read as follows:

§ 372.28 Lower thresholds for chemicals of special concern.

(a) * * *

(2) * * *

Category name	Reporting threshold
* * * * *	
Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below).	100
* * * * *	
42397–64–8 1,6-Dinitropyrene.	
42397–65–9 1,8-Dinitropyrene.	
* * * * *	
07496–02–8 6-Nitrochrysene.	
* * * * *	
57835–92–4 4-Nitropyrene.	
* * * * *	

■ 3. Section 372.65 is amended as follows:

■ a. In the table to paragraph (a) by adding new entries in alphabetical order.

■ b. In the table to paragraph (b) by adding new entries in numerical order.

■ c. In the table to paragraph (c) under the heading "Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below)" by adding four entries in alphabetical order.

§ 372.65 Chemicals and chemical categories to which the part applies.

* * * * *

(a) * * *

Chemical name	CAS No.	Effective date
* * * * *		
1-Amino-2,4-dibromoanthraquinone	00081–49–2	1/11
* * * * *		
2,2-bis(Bromomethyl)-1,3-propanediol	003296–90–0	1/11
Furan	00110–00–9	1/11
* * * * *		
Glycidol	00556–52–5	1/11
* * * * *		
Isoprene	00078–79–5	1/11
* * * * *		
Methyleugenol	00093–15–2	1/11
* * * * *		
o-Nitroanisole	00091–23–6	1/11
* * * * *		
Nitromethane	00075–52–5	1/11
* * * *		
Phenolphthalein	00077–09–8	1/11
* * * * *		
Tetrafluoroethylene	00116–14–3	1/11
* * * * *		
Tetranitromethane	00509–14–8	1/11
* * * * *		
Vinyl Fluoride	00075–02–5	1/11
* * * * *		

(b) * * *

CAS No.	Chemical name	Effective date
* * *	* * *	*
00075–02–5	Vinyl Fluoride	1/11
* * *	* * *	*
00075–52–5	Nitromethane	1/11
* * *	* * *	*
00077–09–8	Phenolphthalein	1/11
* * *	* * *	*
00078–79–5	Isoprene	1/11
* * *	* * *	*
00081–49–2	1-Amino-2,4-dibromoanthraquinone	1/11
* * *	* * *	*
00091–23–6	o-Nitroanisole	1/11
* * *	* * *	*
00093–15–2	Methyleugenol	1/11
* * *	* * *	*
00110–00–9	Furan	1/11
* * *	* * *	*
00116–14–3	Tetrafluoroethylene	1/11
* * *	* * *	*
00509–14–8	Tetranitromethane	1/11
* * *	* * *	*
00556–52–5	Glycidol	1/11
* * *	* * *	*
03296–90–0	2,2-bis(Bromomethyl)-1,3-propanediol	1/11
* * *	* * *	*

(c) * * *

Category name	Effective date
* * * * *	
Polycyclic aromatic compounds (PACs): (This category includes only those chemicals listed below)	
* * * * *	
42397–64–8 1,6-Dinitropyrene	1/11
42397–65–9 1,8-Dinitropyrene	1/11
* * * * *	
07496–02–8 6-Nitrochrysene	1/11
* * * * *	
57835–92–4 4–Nitropyrene	1/11
* * * * *	

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907301205–0289–02]

RIN 0648–XA053

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Temporary Removal of 2,000-lb (907.2-kg) Herring Trip Limit in Atlantic Herring Management Area 1A

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS announces a temporary removal of the 2,000-lb (907.2 kg) trip limit for the Atlantic herring fishery in Management Area 1A (Area 1A) because catch data indicate that 95 percent of the total allowable catch (TAC) threshold in Area 1A has not been fully attained. Vessels issued a Federal permit to harvest Atlantic herring may resume fishing for and landing herring in amounts greater than 2,000 lb (907.2 kg), consistent with their respective Atlantic herring permit categories, effective 0001 hrs, November 29, 2010, through 0001 hrs, December 3, 2010. At 0001 hrs, December 3, 2010, vessels will again be prohibited from fishing for, catching, possessing, transferring, or landing more than 2,000 lb (907.2 kg) of Atlantic herring per trip or calendar day.

DATES: Effective 0001 hours, November 29, 2010, through 0001 hours, December 3, 2010.

FOR FURTHER INFORMATION CONTACT: Lindsey Feldman, Fishery Management Specialist, 978–675–2179.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery are found at 50 CFR part 648. The regulations require annual specification of optimum yield, domestic and foreign fishing, domestic and joint venture processing, and management area TACs. Final herring specifications for 2010–2012 published on August 12, 2010 (75 FR 48874). The 2010 total TAC is 91,200 mt, allocated to the herring management areas as follows: 26,546 mt to Area 1A; 4,362 mt