

(c) *Enforcement periods.* The safety zone described in paragraph (a) of this section will be enforced by the Captain of the Port only upon notice. Notice of enforcement by the Captain of the Port will be provided prior to execution of the drydock movement by all appropriate means, in accordance with 33 CFR 165.7(a). Such means will include issuance of a notice of enforcement to be published in the **Federal Register**, Local Notice to Mariners, and Special Marine Information Broadcast.

Dated: November 8, 2016.

**M.W. Raymond,**

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

[EPA-HQ-TRI-2016-0222; FRL-9951-01]

RIN 2070-AK15

### Addition of Nonylphenol Ethoxylates Category; Community Right-To-Know Toxic Chemical Release Reporting

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to add a nonylphenol ethoxylates (NPEs) category to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). EPA is proposing to add this chemical category to the EPCRA section 313 list because EPA believes NPEs meet the EPCRA section 313(d)(2)(C) toxicity criteria. Specifically, EPA believes that longer chain NPEs can break down in the environment to short-chain NPEs and nonylphenol, both of which are highly toxic to aquatic organisms. Based on a review of the available production and use information, members of the NPEs category are expected to be manufactured, processed, or otherwise used in quantities that would exceed EPCRA section 313 reporting thresholds.

**DATES:** Comments must be received on or before January 17, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-TRI-2016-0222, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/where-send-comments-epa-dockets#hq>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Daniel R. Bushman, Toxics Release Inventory Program Division (7410M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 566-0743; email: [bushman.daniel@epa.gov](mailto:bushman.daniel@epa.gov).

*For general information contact:* The Emergency Planning and Community Right-to-Know Hotline; telephone numbers: toll free at (800) 424-9346 (select menu option 3) or (703) 412-9810 in the Washington, DC Area and International; or toll free, TDD (800) 553-7672; or go to <http://www.epa.gov/superfund/contacts/infocenter/>.

#### 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 NPEs. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (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 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 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 code 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.*) (corresponds to SIC code 4953, Refuse Systems).

- Federal facilities.

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 under **FOR FURTHER INFORMATION CONTACT**.

###### B. What action is the agency taking?

EPA is proposing to add a NPEs category to the list of toxic chemicals subject to reporting under EPCRA section 313 and PPA section 6607. As discussed in more detail later in this document, EPA is proposing to add this chemical category to the EPCRA section 313 list because EPA believes NPEs meet the EPCRA section 313(d)(2)(C) toxicity criteria.

###### C. What is the agency's authority for taking this action?

This action is issued under EPCRA sections 313(d) and 328, 42 U.S.C. 11023 *et seq.*, and PPA section 6607, 42 U.S.C. 13106. EPCRA is also referred to as Title III of the Superfund

Amendments and Reauthorization Act of 1986.

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 was comprised of 308 individually listed 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 EPCRA 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 criteria in EPCRA section 313(d)(2) are met. The listing criteria in EPCRA section 313(d)(2)(A)–(C) are as follows:

- 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.

- The chemical is known to cause or can reasonably be anticipated to cause in humans: Cancer or teratogenic effects, or serious or irreversible reproductive dysfunctions, neurological disorders, heritable genetic mutations, or other chronic health effects.

- The chemical is known to cause or can be reasonably anticipated to cause, because of its toxicity, its toxicity and persistence in the environment, or 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 EPCRA section 313(d)(2)(A) criterion as the “acute human health effects criterion;” the EPCRA section 313(d)(2)(B) criterion as the “chronic human health effects criterion;” and the EPCRA section 313(d)(2)(C) criterion as the “environmental effects criterion.”

EPA published in the **Federal Register** of November 30, 1994 (59 FR

61432) (FRL–4922–2), a statement clarifying its interpretation of the EPCRA section 313(d)(2) and (d)(3) criteria for modifying the EPCRA section 313 list of toxic chemicals.

## II. Background Information

### A. What are NPEs?

NPEs are nonionic surfactants containing a branched nine-carbon alkyl chain bound to phenol and a chain of repeating ethoxylate units ( $C_9H_{19}C_6H_4(OCH_2CH_2)_nOH$ ). The number of repeating ethoxylate units ( $n$ ) can range from 1 to 100 (Reference (Ref.) 1). The major positional isomer is para ( $\geq 90\%$ ), while the ortho isomer is typically less than 10% (Ref. 2). The number of ethoxylate units can be designated as NP#EO where # indicates the number of ethoxylate groups. For example, nonylphenol monoethoxylate would be NP1EO and nonylphenol diethoxylate would be NP2EO. Alternatively, NPE-# can be used where # indicates the number of ethoxylate groups. The surfactant properties of NPEs have resulted in their widespread industrial and commercial use in adhesives, wetting agents, emulsifiers, stabilizers, dispersants, defoamers, cleaners, paints, and coatings (Refs. 1, 3, 4, 5, and 6). The widespread use of NPEs surfactants has resulted in their release to surface waters (Ref. 4).

### B. How does EPA propose to list NPEs?

EPA is proposing to list NPEs as a category that would include the thirteen NPEs that currently appear on the Toxic Substances Control Act inventory (<https://www.epa.gov/tsca-inventory>). The NPEs category would be defined as Nonylphenol Ethoxylates and would only include those chemicals covered by the following Chemical Abstracts Service Registry Numbers (CASRNs):

- 7311–27–5; Ethanol, 2-[2-[2-(4-nonylphenoxy)ethoxy]ethoxy]ethoxy]-
- 9016–45–9; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(nonylphenyl)- $\omega$ -hydroxy-
- 20427–84–3; Ethanol, 2-[2-(4-nonylphenoxy)ethoxy]-
- 26027–38–3; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(4-nonylphenyl)- $\omega$ -hydroxy-
- 26571–11–9; 3,6,9,12,15,18,21,24-Octaoxahexacosan-1-ol, 26-(nonylphenoxy)-
- 27176–93–8; Ethanol, 2-[2-(nonylphenoxy)ethoxy]-
- 27177–05–5; 3,6,9,12,15,18,21-Heptaoxatricosan-1-ol, 23-(nonylphenoxy)-
- 27177–08–8; 3,6,9,12,15,18,21,24,27-Nonaioxanonacosan-1-ol, 29-(nonylphenoxy)-

- 27986–36–3; Ethanol, 2-(nonylphenoxy)-
- 37205–87–1; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(isononylphenyl)- $\omega$ -hydroxy-
- 51938–25–1; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(2-nonylphenyl)- $\omega$ -hydroxy-
- 68412–54–4; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(nonylphenyl)- $\omega$ -hydroxy-, branched
- 127087–87–0; Poly(oxy-1,2-ethanediyl),  $\alpha$ -(4-nonylphenyl)- $\omega$ -hydroxy-, branched

## III. What is EPA’s evaluation of the ecological toxicity and environmental fate of NPEs?

EPA prepared two technical documents to support the listing of the NPEs category. The first document is “Chemistry and Environmental Fate of Ethoxylates (NPEs)” (Ref. 7), which provides detailed information on the chemistry and environmental fate of NPEs. The second document is “Ecological Hazard Assessment for Nonylphenol Monoethoxylate (NP1EO) and Nonylphenol Diethoxylate (NP2EO)” (Ref. 8), which provides an assessment of the ecological toxicity of short-chain NPEs. Unit III.A. provides a brief summary of the chemistry and environmental fate of NPEs and Unit III.B. provides a brief summary of the ecological toxicity of short-chain NPEs. Readers should consult the support documents (Refs. 7 and 8) for further information.

### A. What is the environmental fate of nonylphenol ethoxylates?

In the environment, NPEs (in particular, those containing long ethoxylate chains) are expected to have very low volatility based on Henry’s law constant values of  $< 9.8 \times 10^{-7}$  atmospheres-cubic meter per mole ( $\text{atm}\cdot\text{m}^3/\text{mol}$ ) (Ref. 9). However, the vapor pressures of some of the degradation products of long-chain NPEs (e.g., nonylphenol, NP1EO) indicate the potential to exist in the atmosphere in the vapor phase. Although nonylphenol itself is somewhat volatile, volatilization of most NPEs from soil and water surfaces is not expected to be a significant environmental transport process. The potential for adsorption of NPEs to organic carbon in soil and to suspended solids and sediment in water is expected to increase with decreasing ethoxylation as water solubilities decrease (Ref. 9). In general, partitioning to soils and sediments is expected to be significant based on carbon-normalization partition coefficient ( $\log K_{oc}$ ) values of 4.87–5.46 for NP1EO, NP2EO, and NP3EO and 3.61–4.63 for

NP9EO, which indicate a potential for strong adsorption to suspended solids and sediments in water and to organic matter in soils (Ref. 9). The highly water-soluble, higher molecular weight (*i.e.*, longer chain) NPEs are expected to adsorb less to organic carbon, and may therefore have some mobility in soil (Refs. 9 and 10).

Biodegradation is the dominant fate process for NPEs in the environment; abiotic degradation processes such as hydrolysis are not expected to be significant (Ref. 9). The available data indicate that NPEs undergo rapid primary biodegradation but slow ultimate biodegradation (Refs. 11, 12, 13, 14, 15, 16, 17, 18, and 19). Half-lives ranging from 2 to 57.8 days have been determined for these substances based on river water die-away studies, which report primary degradation (Ref. 13). Anaerobic biodegradation appears to proceed more slowly than aerobic biodegradation (Ref. 13). Nonylphenol ethoxylate biodegradation products include shorter chain NPEs and ethoxycarboxylates. (Refs. 9, 10, and 20). Nonylphenol ethoxycarboxylates are NPEs that terminate with a carboxylate group (-CO<sub>2</sub>H) rather than an alcohol group (-OH). Although not commonly observed under aerobic conditions, nonylphenol is a major metabolite of NPEs under anaerobic conditions (Refs. 9, 10, 21, 22, 23, 24, 25, 26, and 27).

Well-designed and properly functioning wastewater treatment plants (WWTPs) can greatly reduce effluent concentrations of NPEs and their degradation products relative to those found in the influent (Ref. 28). However, treatment efficiency varies considerably for WWTPs depending on plant design and operating conditions (Refs. 10, 29, 30, 31, and 32). WWTP effluent remains a significant source of NPEs, nonylphenol ethoxycarboxylates, and nonylphenol in the environment, and concentrations of these compounds in surface waters, sediments, and wildlife tend to be higher near WWTP outfalls (Refs. 10, 31, 33, 34, 35, 36, and 37).

Nonylphenol ethoxylates and the degradation products, nonylphenol ethoxycarboxylates and nonylphenol, are widely distributed in surface waters, including rivers, lakes, estuaries, marine ecosystems, and their underlying sediments (Refs. 10, 31, 33, 34, 35, 38, 39, 40, and 41). The more hydrophobic of these compounds, such as nonylphenol, NP1EO, and NP2EO, tend to partition to sediments (Ref. 10). Because sediments are often anaerobic, sorbed nonylphenol ethoxylates and their degradation products undergo further biodegradation slowly,

ultimately producing nonylphenol. Through a combination of strong sorption and slow biodegradation, NPEs and nonylphenol can accumulate in sediments in concentrations that are much higher than are found in the surrounding water (Refs. 10 and 37) and can persist for years (Ref. 42).

#### *B. What is the ecological toxicity of short-chain NPEs?*

For NPEs, aquatic toxicity generally decreases as the length of the ethoxylate chain increases (Refs. 43 and 44). The available data show that NP1EO and NP2EO are significantly more toxic to aquatic organisms than the longer chain ethoxylates (*e.g.*, NP9EO). Experimental data on acute aquatic toxicity of NP1EO indicate 96-hour LC<sub>50</sub> values (*i.e.*, the concentration that is lethal to 50% of test organisms) as low as 218 µg/L in the fathead minnow (*Pimphales promelas*) (Ref. 45). The 48-hour LC<sub>50</sub> for the water flea, (*Daphnia magna*) and NP2EO was as low as 148 µg/L (Ref. 46). Longer term exposures to NP1EO resulted in a Maximum-Acceptable-Toxicant-Concentration (MATC) of 61 µg/L based on an increase of mixed secondary sex characteristics for the Japanese medaka (*Oryzias latipes*) (Ref. 47). Exposure of rainbow trout (*Oncorhynchus mykiss*) to NP2EO indicated a 22-day Lowest-Observed-Effect-Concentration (LOEC) for growth inhibition of 1 µg/L (Ref. 48). Gonadosomatic Index (GSI) (weight of testes expressed as a percentage of total body weight) in rainbow trout also decreased relative to controls with a 21-day LOEC of 38 µg/L for NP2EO (Ref. 49). Additional toxicity values are included in the ecological hazard assessment (Ref. 8).

The available experimental data demonstrate that NP1EO and NP2EO have been shown to cause acute and chronic toxicity to aquatic organisms at very low concentrations (Ref. 8). They have been shown to reduce individual survival, growth, and reproduction in aquatic organisms and NP2EO has been shown to reduce testicular growth and GSI in fish. The concentrations at which toxicity is observed are well below 1 mg/L and as low as 148 µg/L for acute effects and less than 0.1 mg/L for chronic effects. Acute and chronic toxicity values at these low concentrations show that NP1EO and NP2EO are highly toxic to aquatic organisms.

#### **IV. Rationale for Listing NPEs**

The NPEs category that EPA is proposing to add to the EPCRA section 313 toxic chemical list, contains both short and long-chain NPEs. Short-chain NPEs are highly toxic to aquatic

organisms with toxicity values well below 1 mg/L as described in Unit III. Therefore, EPA believes that the evidence is sufficient for listing short-chain NPEs on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(C) based on the available ecological toxicity data. Long-chain NPEs, while not as toxic as short-chain NPEs, degrade in the environment to produce products that include highly toxic short-chain NPEs and nonylphenol. Nonylphenol is even more toxic to aquatic organisms than short-chain NPEs and was added to the EPCRA section 313 toxic chemical list based on its toxicity to aquatic organisms (79 FR 58686, FRL-9915-59-OEI, September 30, 2014). As a source of degradation products that are highly toxic to aquatic organisms, EPA believes that the evidence is sufficient for listing long-chain NPEs on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(C) based on the available ecological toxicity and environmental fate data.

EPA does not believe that it is appropriate to consider exposure for chemicals that are highly toxic based on a hazard assessment when determining if a chemical can be added for environmental effects pursuant to EPCRA section 313(d)(2)(C) (see 59 FR 61440-61442). Therefore, in accordance with EPA's standard policy on the use of exposure assessments (see November 30, 1994 (59 FR 61432) (FRL-4922-2)), EPA does not believe that an exposure assessment is necessary or appropriate for determining whether NPEs meet the criteria of EPCRA section 313(d)(2)(C).

#### **V. References**

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not itself physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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## VI. What are the Statutory and Executive Orders reviews associated with this action?

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

### B. Paperwork Reduction Act (PRA)

This action does not contain any new information collection requirements that require additional approval by OMB under the PRA, 44 U.S.C. 3501 *et seq.* OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2025–0009 and 2050–0078. Currently, the facilities subject to the reporting requirements under EPCRA section 313 and PPA section 6607 may use either EPA Toxic Chemicals Release Inventory Form R (EPA Form 1B9350–1), or 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 Forms A and R, supplier notification, and petitions under OMB Control number 2025–0009 (EPA Information Collection Request (ICR) No. 1363) and those related to trade secret designations under OMB Control 2050–0078 (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 or 48 CFR chapter 15, and displayed on the information collection instruments (e.g., forms, instructions).

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* The small entities subject to the requirements of this action are small manufacturing facilities. The Agency has determined that of the 178 entities estimated to be impacted by this action, 161 are small businesses; no small governments or small organizations are expected to be affected by this action. All 161 small businesses affected by this action are estimated to incur annualized cost impacts of less than 1%. Thus, this action 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 (Ref. 50).

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action is not subject to the requirements of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. EPA did not identify any small governments that would be impacted by this action. EPA's economic analysis indicates that the total cost of this action is estimated to be \$619,627 in the first year of reporting (Ref. 50).

### E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). 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.

### 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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards and is therefore not subject to considerations under section 12(d) of NTTAA, 15 U.S.C. 272 note.

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

EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not address any human health or environmental risks and does not affect the level of protection provided to human health or the environment. This action adds an additional chemical to the EPCRA section 313 reporting requirements. By adding a chemical 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 action would have positive human health and environmental impacts on minority populations, low-income populations, and children.

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

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

Dated: November 2, 2016.

**Gina McCarthy,**  
*Administrator.*

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

**PART 372—[AMENDED]**

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

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

■ 2. In § 372.65, paragraph (c) is amended by adding alphabetically an entry for “Nonylphenol Ethoxylates (This category includes only those chemicals covered by the CAS numbers listed here)” to the table to read as follows:

**§ 372.65 Chemicals and chemical categories to which this part applies.**

\* \* \* \* \*  
(c) \* \* \*

Category name	Effective date
* * * * *	*
Nonylphenol Ethoxylates (This category includes only those chemicals covered by the CAS numbers listed here)	1/1/18
7311–27–5 Ethanol, 2-[2-[2-(4-nonylphenoxy)ethoxy]ethoxy]ethoxy]-	
9016–45–9 Poly(oxy-1,2-ethanediyl), α-(nonylphenyl)-ω-hydroxy-	
20427–84–3 Ethanol, 2-[2-(4-nonylphenoxy)ethoxy]-	
26027–38–3 Poly(oxy-1,2-ethanediyl), α-(4-nonylphenyl)-ω-hydroxy-	
26571–11–9 3,6,9,12,15,18,21,24-Octaoxaheacosan-1-ol, 26-(nonylphenoxy)-	
27176–93–8 Ethanol, 2-[2-(nonylphenoxy)ethoxy]-	
27177–05–5 3,6,9,12,15,18,21-Heptaaxatricosan-1-ol, 23-(nonylphenoxy)-	
27177–08–8 3,6,9,12,15,18,21,24,27-Nonaaxanonacosan-1-ol, 29-(nonylphenoxy)-	
27986–36–3 Ethanol, 2-(nonylphenoxy)-	
37205–87–1 Poly(oxy-1,2-ethanediyl), α-(isononylphenyl)-ω-hydroxy-	
51938–25–1 Poly(oxy-1,2-ethanediyl), α-(2-nonylphenyl)-ω-hydroxy-	
68412–54–4 Poly(oxy-1,2-ethanediyl), α-(nonylphenyl)-ω-hydroxy-, branched	
127087–87–0 Poly(oxy-1,2-ethanediyl), α-(4-nonylphenyl)-ω-hydroxy-, branched	
* * * * *	*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 216**

[Docket No. 080302361–6677–01]

RIN 0648–AU02

**Protective Regulations for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act; Reopening of Public Comment Period**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; reopening of public comment period.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), are reopening the public comment period on the proposed rule under the Marine Mammal Protection Act (MMPA) to prohibit swimming with and approaching a Hawaiian spinner dolphin within 50 yards (45.7 m) (for persons, vessels, and objects), including approach by interception. The comment period for the proposed rule that published on August 24, 2016 (81 FR 57854) closed on October 23, 2016. NMFS is reopening the public comment period for an additional 15 days to

provide the public with additional time to submit information and to comment on this proposed rule.

**DATES:** Written comments on this proposed rule must be received by December 1, 2016. Comments received between the close of the first comment period on October 23, 2016, and the reopening of the comment period November 16, 2016 will be considered timely received.

**ADDRESSES:** You may submit comments, information, or data on the proposed rule, identified by NOAA–2005–0226, and on the Draft Environmental Impact Statement (DEIS) by either of the following methods:

*Electronic Submission:* Submit all electronic comments via the Federal eRulemaking Portal. Go to