

action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. The costs involved in this action are imposed only by voluntary participation in a federal program.

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.

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

This action does not have tribal implications as specified in Executive Order 13175. The EPA has concluded that this action will have no new tribal implications, nor would it present any additional burden on the tribes. It will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law. 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 Executive Order 13045, because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. Washington has incorporated those requirements from the Federal MSWLF landfill criteria (40 CFR part 258) not found in Washington's existing program and EPA has determined that Washington's program includes terms and conditions that are at least as protective as the MSWLF landfill criteria for municipal solid waste landfills, to assure protection of human health and the environment.

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

This action is not subject to Executive Order 13211, 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.

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

The purpose of this action is to approve amendments to Washington's MSWLF permitting program which result in it meeting all of the statutory and regulatory requirements established by RCRA. The EPA believes that the human health and environmental risk addressed by this action will not have a new disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 239

Environmental protection, Administrative practice and procedure, Intergovernmental relations, Waste treatment and disposal.

40 CFR Part 258

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Authority: This action is issued under the authority of section 2002, 4005 and 4010(c) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6945 and 6949(a).

Dated: October 20, 2016.

Dennis J. McLerran,

Regional Administrator, EPA Region 10.

[FR Doc. 2016–26754 Filed 11–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2015–0607; FRL–9953–28]

RIN 2025–AA42

Addition of Hexabromocyclododecane (HBCD) Category; Community Right-to-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adding a hexabromocyclododecane (HBCD) 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 adding this chemical category to the EPCRA section 313 list because EPA has determined that HBCD meets the EPCRA section 313(d)(2)(B) and (C) toxicity criteria. Specifically, EPA has determined that HBCD can reasonably be anticipated to cause developmental and reproductive effects in humans and is highly toxic to aquatic and terrestrial organisms. In addition, based on the available bioaccumulation and persistence data, EPA has determined that HBCD should be classified as a persistent, bioaccumulative, and toxic (PBT) chemical and assigned a 100-pound reporting threshold.

DATES: *Effective Date:* This final rule is effective November 30, 2016.

Applicability date: This final rule will apply for the reporting year beginning January 1, 2017 (reports due July 1, 2018).

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–TRI–2015–0607. All documents in the docket are listed on <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 electronically through <http://www.regulations.gov>. Additional instructions on 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.

For general information contact: The EPCRA Hotline; telephone numbers: Toll free at (800) 424-9346 (select menu option 3) or (703) 412-9810 in Washington DC 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 document apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use HBCD. 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 adding an HBCD category to the list of toxic chemicals subject to reporting under EPCRA section 313 and PPA section 6607. EPA is adding this chemical category to the EPCRA section 313 list because EPA has determined that HBCD meets the EPCRA section 313(d)(2)(B) and (C) toxicity criteria. EPA is also adding the HBCD category to the list of chemicals with special concern (see 40 CFR 372.28(a)(2)) and establishing a 100-pound reporting threshold.

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 comprised 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. Summary of Proposed Rule

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

As discussed in the proposed rule June 2, 2016 (81 FR 35275) (FRL-9943-55), EPA proposed to add HBCD which is a cyclic aliphatic hydrocarbon consisting of a 12-membered carbon ring with 6 bromine atoms attached (molecular formula C₁₂H₁₈Br₆). HBCD has 16 possible stereoisomers. HBCD may be designated as a non-specific mixture of all isomers (hexabromocyclododecane, Chemical Abstracts Service Registry Number (CASRN) 25637-99-4) or as a mixture of the three main diastereomers

(1,2,5,6,9,10-hexabromocyclododecane, CASRN 3194–55–6). EPA proposed to create an HBCD category that would cover these two chemical names and CASRNs and would be defined as: Hexabromocyclododecane, includes those chemicals covered by the following CAS numbers:

- 3194–55–6; 1,2,5,6,9,10-Hexabromocyclododecane
- 25637–99–4; Hexabromocyclododecane.

As a category, facilities that manufacture, process, or otherwise use HBCD covered under both of these names and CASRNs would file just one report.

B. What reporting threshold did EPA propose to establish for the HBCD category?

As EPA stated in the proposed rule June 2, 2016 (81 FR 35275) (FRL–9943–55), EPA proposed to add the HBCD category to the list of chemicals of special concern (see 40 CFR 372.28(a)(2)). There are several chemicals and chemical categories on the EPCRA section 313 chemical list that have been classified as chemicals of special concern because they are PBT chemicals. In a final rule published in the **Federal Register** of October 29, 1999 (64 FR 58666) (FRL–6389–11), EPA established the PBT classification criteria for chemicals on the EPCRA section 313 chemical list. The data presented in the proposed rule supported classifying the HBCD category as a PBT chemical category with a 100-pound reporting threshold.

C. What was EPA's rationale for proposing to list the HBCD category?

As discussed in the proposed rule June 2, 2016 (81 FR 35275) (FRL–9943–55), HBCD has been shown to cause developmental effects at doses as low as 146.3 milligrams per kilogram per day (mg/kg/day) lowest-observed-adverse-effect level (LOAEL) in male rats. Developmental effects have also been observed with a benchmark dose lower bound confidence limit (BMDL) of 0.056 mg/kg/day (benchmark dose (BMD) of 0.18 mg/kg/day) based on effects in female rats and a BMDL of 0.46 mg/kg/day (BMD of 1.45 mg/kg/day) based on effects in male rats. HBCD also causes reproductive toxicity at doses as low 138 mg/kg/day (LOAEL) in female rats. Based on the available developmental and reproductive toxicity, EPA stated that HBCD can be reasonably anticipated to cause moderately high to high chronic toxicity in humans. EPA stated that the evidence was sufficient for listing the HBCD category on the

EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(B) based on the available developmental and reproductive toxicity data.

As also discussed in the proposed rule, HBCD has been shown to be highly toxic to both aquatic and terrestrial species with acute aquatic toxicity values as low as 0.009 milligrams per liter (mg/L) and chronic aquatic toxicity values as low as 0.0042 mg/L. HBCD is highly toxic to terrestrial species as well with observed toxic doses as low as 0.51 and 2.1 mg/kg/day. In addition to being highly toxic, HBCD is also bioaccumulative and persistent in the environment, which further supports a high concern for the toxicity to aquatic and terrestrial species. EPA stated that HBCD meets the EPCRA section 313(d)(2)(C) listing criteria on toxicity alone but also based on toxicity and bioaccumulation as well as toxicity and persistence in the environment. Therefore, EPA stated that the evidence is sufficient for listing the HBCD category on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(C) based on the available ecological toxicity data as well as the bioaccumulation and persistence data.

D. What was EPA's rationale for lowering the reporting threshold for HBCD?

EPA stated in the proposed rule that the available bioaccumulation and persistence data for HBCD support a classification of HBCD as a PBT chemical June 2, 2016 (81 FR 35275) (FRL–9943–55). HBCD has been shown to be highly bioaccumulative in aquatic species and to also biomagnify in aquatic and terrestrial food chains. While there is limited data on the half-life of HBCD in soil and sediment, the best available data supports a determination that the half-life of HBCD in soil and sediment is at least 2 months. This determination is further supported by the data from environmental monitoring studies, which indicate that HBCD has significant persistence in the environment. The widespread presence of HBCD in numerous terrestrial and aquatic species also supports the conclusion that HBCD has significant persistence in the environment. Therefore, consistent with EPA's established policy for PBT chemicals (See 64 FR 58666, October 29, 1999) (FRL–6389–11) EPA proposed to establish a 100-pound reporting threshold for the HBCD category.

III. What comments did EPA receive on the proposed rule?

EPA received three comments on the proposed rule, two from individuals (Refs. 1 and 2) and one from a coalition of environmental and public interest groups and individuals (the coalition) (Ref. 3). All commenters supported the addition of the HBCD category to the EPCRA section 313 toxic chemical list. However, in their comments the coalition stated that HBCD is highly bioaccumulative and highly persistent and based on EPA's PBT classification criteria, a reporting threshold of 10 pounds should be established for the HBCD category. EPA provided the following background information in the proposed rule:

“In a final rule published in the **Federal Register** of October 29, 1999 (64 FR 58666) (FRL–6389–11), EPA established the PBT classification criteria for chemicals on the EPCRA section 313 chemical list. For purposes of EPCRA section 313 reporting, EPA established persistence half-life criteria for PBT chemicals of 2 months in water/sediment and soil and 2 days in air, and established bioaccumulation criteria for PBT chemicals as a bioconcentration factor (BCF) or bioaccumulation factor (BAF) of 1,000 or higher. Chemicals meeting the PBT criteria were assigned 100-pound reporting thresholds. With regards to setting the EPCRA section 313 reporting thresholds, EPA set lower reporting thresholds (10 pounds) for those PBT chemicals with persistence half-lives of 6 months or more in water/sediment or soil and with BCF or BAF values of 5,000 or higher, these chemicals were considered highly PBT chemicals. The data presented in this proposed rule support classifying the HBCD category as a PBT chemical category with a 100-pound reporting threshold.” June 2, 2016 (81 FR 35277) (FRL–9943–55).

EPA agrees with the commenter that HBCD is highly bioaccumulative but does not agree that HBCD meets the established criteria for highly persistent. The commenter stated that “While half-life data is limited, several studies estimate the half-life in sediment and soil to be greater than 120 days, while one study estimates a half-life of 190 days in abiotic sediment.” The study that the commenter cited as estimating a half-life of 190 days in abiotic sediment was Davis *et al.* 2005 (Ref. 4), which, as EPA discussed in the proposed rule, is a study that had a number of problems. For example, EPA noted that:

“Additionally, the Davis *et al.* 2005 study (Ref. 96) was considered to be of

uncertain reliability for quantifying HBCD persistence because of concerns regarding potential contamination of sediment samples, an interfering peak corresponding to γ -HBCD in the liquid chromatography/mass spectrometry (LC/MS) chromatograms, and poor extraction of HBCD leading to HBCD recoveries of 33–125% (Refs. 44 and 101).” June 2, 2016 (81 FR 35284).

A better-conducted subsequent study by the same authors Davis *et al.* 2006 (Ref. 5) resulted in longer overall half-life values but no specific value equal to or above 180 days. As stated in the proposed rule, “While there is limited data on the half-life of HBCD in soil and sediment, the best available data supports a determination that the half-life of HBCD in soil and sediment is at least 2 months.” EPA does not believe that it would be appropriate to set a lower reporting threshold based on one half-life value of 190 days from a study that had a number of identified problems.

IV. Summary of Final Rule

EPA is finalizing the addition of an HBCD category to the EPCRA section 313 list of toxic chemicals. EPA has determined that HBCD meets the listing criteria under EPCRA section 313(d)(2)(B) and (C). The HBCD category will be defined as:

Hexabromocyclododecane (This category includes only those chemicals covered by the CAS numbers listed here)

- 3194–55–6; 1,2,5,6,9,10-Hexabromocyclododecane
- 25637–99–4; Hexabromocyclododecane.

EPA is also finalizing the addition of the HBCD category to the list of chemicals with special concern (see 40 CFR 372.28(a)(2)) and establishing a 100-pound reporting threshold. EPA has determined that the data support classifying the HBCD category as a PBT chemical category with a 100-pound reporting threshold.

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**.

1. Comment submitted by M. Clark. July 22, 2016. EPA–HQ–TRI–2015–0607–0217.

2. Anonymous public comment. July 31, 2016. EPA–HQ–TRI–2015–0607–0218.

3. Comment submitted by E. Gartner, Staff Attorney, Earthjustice *et al.* Re: Addition of Hexabromocyclododecane (HBCD) Category; Community Right-to-Know Toxic Chemical Release Reporting, August 1, 2016. EPA–HQ–TRI–2015–0607–0219.

4. Davis, J.W., Gonsior, S.J., Marty, G.T., *et al.* 2005. The transformation of hexabromocyclododecane in aerobic and anaerobic soils and aquatic sediments. *Water Res.* 39:1075–1084.

5. Davis, J.W., Gonsior, S.J., Markham, D.A., *et al.* 2006. Biodegradation and product identification of [¹⁴C]hexabromocyclododecane in wastewater sludge and freshwater aquatic sediment. *Environ. Sci. Technol.* 40:5395–5401. Including supporting information document.

6. USEPA, OCSPP. 2016. Economic Analysis of the Final Rule to add HBCD to the List of TRI Reportable Chemicals. August 10, 2016.

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. Since the HBCD category would be classified a PBT category, it is designated as a chemical of special concern, for which Form A reporting is not allowed. 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 55 entities estimated to be impacted by this action, 42 are small businesses; no small governments or small organizations are expected to be affected by this action. All 42 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. 6).

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. Small governments are not subject to the EPCRA section 313 reporting requirements. EPA's economic analysis indicates that the total cost of this action is estimated to be \$372,973 in the first year of reporting (Ref. 6).

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

will have positive human health and environmental impacts on minority populations, low-income populations, and children.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 372

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

Dated: November 15, 2016.

Gina McCarthy,
Administrator.

Therefore, 40 CFR chapter I 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, amend the table in paragraph (a)(2) as follows:

■ a. Revise the second column header to read "Reporting threshold (in pounds unless otherwise noted)", and

■ b. Alphabetically add the category "Hexabromocyclododecane (This category includes only those chemicals covered by the CAS numbers listed here)" and entries "3194-55-6 (1,2,5,6,9,10-Hexabromocyclododecane)" and "25637-99-4 (Hexabromocyclododecane)".

The additions read as follows:

§ 372.28 Lower thresholds for chemicals of special concern.

- (a) * * *
- (2) * * *

Category name	Reporting threshold (in pounds unless otherwise noted)
* * * * *	*
Hexabromocyclododecane (This category includes only those chemicals covered by the CAS numbers listed here)	100
3194-55-6 1,2,5,6,9,10-Hexabromocyclododecane
25637-99-4 Hexabromocyclododecane
* * * * *	*

■ 3. In § 372.65, paragraph (c) is amended by adding alphabetically an

entry for "Hexabromocyclododecane (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
* * * * * Hexabromocyclododecane (This category includes only those chemicals covered by the CAS numbers listed here) 3194–55–6 1,2,5,6,9,10-Hexabromocyclododecane 25637–99–4 Hexabromocyclododecane * * * * *	1/1/17

[FR Doc. 2016–28102 Filed 11–25–16; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 435

[EPA–HQ–OW–2014–0598; FRL–9955–65–OW]

RIN 2040–AF68

Effluent Limitations Guidelines and Standards for the Oil and Gas Extraction Point Source Category—Implementation Date Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because the Environmental Protection Agency (EPA) received comments that could be construed as adverse, the EPA is withdrawing the direct final rule issued on September 30, 2016, to extend the implementation date for certain facilities subject to the EPA’s final rule establishing pretreatment standards under the Clean Water Act (CWA) for discharges of pollutants into publicly-owned treatment works (POTWs) from unconventional oil and gas extraction.

DATES: Effective November 28, 2016, the EPA withdraws the direct final rule published September 30, 2016 (81 FR 67191).

FOR FURTHER INFORMATION CONTACT: For more information, see EPA’s Web site: <https://www.epa.gov/eg/unconventional-oil-and-gas-extraction-effluent-guidelines>. For technical information, contact Karen Milam, Engineering and Analysis Division (4303T), Office of Water, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone: 202–566–1915; email: milam.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

On September 30, 2016, the EPA published a direct final rule that

extended the implementation date for certain facilities to meet the requirements of the final pretreatment standards rule for unconventional oil and gas extraction. (81 FR 67191; September 30, 2016). In that direct final rule, the EPA stated that if we received adverse comments by October 31, 2016, the EPA would publish a timely withdrawal and address the comments in a final rule based on the proposed rule also published on September 30, 2016. (81 FR 67266; September 30, 2016).

The direct final rule specifically indicated that “EPA will not consider any comment submitted on the direct final rule published today on any topic other than the appropriateness of an extension of the compliance date; any other comments will be considered to be outside the scope of this rulemaking.” (81 FR 67192; September 30, 2016). Commenters supported the compliance date being extended; the EPA did not receive any comments opposing the extension of the compliance date, and thus maintains that there were no adverse comments on the direct final rule. As indicated in the direct final rule, the EPA considers any comments on topics other than the extension of the compliance date—including comments submitted on the applicability of the underlying final pretreatment standards rule—to be outside the scope of this rulemaking. However, to the extent that any of the comments could be broadly interpreted as seeking an alternative compliance period, and thus arguably within scope, the EPA, in its discretion, is withdrawing the direct final rule and instead will issue a final action to address the compliance date, which will be based on the parallel proposed rule also published on September 30, 2016. (81 FR 67266; September 30, 2016). For purposes of this withdrawal, compliance date and implementation date are used interchangeably. As stated in the parallel proposal, we will not

institute a second comment period on this proposed action.

Withdrawal of this direct final rule removes the extension of the compliance date for the subset of facilities identified in the direct final rule. It does not withdraw, or otherwise impact, the underlying final pretreatment standards rule for unconventional oil and gas extraction, which continues to apply to all facilities that meet the definition of “unconventional” in that rule.

List of Subjects in 40 CFR Part 435

Environmental protection, Pretreatment, Waste treatment and disposal, Water pollution control, Unconventional oil and gas extraction.

Dated: November 17, 2016.

Michael H. Shapiro,
Deputy Assistant Administrator.

Accordingly, the direct final rule, published in the **Federal Register** on September 30, 2016, at 81 FR 67191, is withdrawn as of November 28, 2016.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140819686–5999–02]

RIN 0648–XF045

Snapper-Grouper Fishery of the South Atlantic; 2016 Recreational Accountability Measure and Closure for South Atlantic Greater Amberjack

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the recreational sector of greater amberjack in the exclusive economic zone (EEZ) of the South Atlantic for the current