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Attorney, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 372

[EPA–HQ–TRI–2002–0001; FRL–8311–6]

RIN 2025–AA12

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), EPA is finalizing revisions to the reporting requirements for the dioxin and dioxin-like compounds category. The current EPCRA section 313 regulations require facilities to report dioxin and dioxin-like compounds in units of total grams for the entire category, and provide a single generic distribution of the individual dioxin and dioxin-like compounds at the facility. The final rule requires that, in addition to reporting total gram quantities for the category, facilities are required to report the mass quantity of each individual member of the category. The mass quantity data for the individual members of the category will be used by EPA to perform toxic equivalency (TEQ) computations which will be made available to the public. TEQs are a weighted quantity measure based on the toxicity of each member of the dioxin and dioxin-like compounds category relative to the most toxic members of the category, i.e., 2,3,7,8-tetrachlorodibenzo-p-dioxin and 1,2,3,7,8-pentachlorodibenzo-p-dioxin. The final rule also eliminates the reporting of the single generic distribution for the members of the dioxin and dioxin-like compounds category.

DATES: This final rule is effective on July 9, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–TRI–2002–0001. All documents in the docket are listed on the www.regulations.gov Web site. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Office of Environmental Information (OEI) Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 564–2736.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Final Rule Apply to Me?

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

Category	Examples of potentially affected entities
Industry	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*, 212234*, 212235*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 511220, 512230*, 516110*, 541710*, 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 (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; 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. What Is EPA's Statutory Authority for Taking These Actions?

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

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

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

Section 313(h) provides that the data collected under EPCRA section 313 are intended to inform persons about the releases of toxic chemicals to the environment; to assist governmental agencies, researchers, and other persons in the conduct of research and data gathering; to aid in the development of appropriate regulations, guidelines, and standards, and for other similar purposes. 42 U.S.C. 11023(h). EPA has long recognized that subsection (h) of section 313 describes the purposes of EPCRA section 313, and has frequently relied on this provision to guide its implementation. See, H.R. Conf. Rep. 99–962 at 299. ([Subsection (h)] ''describes the intended uses of the toxic chemical release forms required to be submitted by this section and expresses the purposes of this section.''); 62 FR 23834; 23835–836 (May 1, 1997) (facility expansion); 64 FR 58666; 58667; 58687–692 (October 29, 1999) (lowering the reporting thresholds for certain persistent bioaccumulative toxic chemicals).

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

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

III. What Did EPA Include in the Proposed Rule?

On March 7, 2005, EPA published a proposed rule to expand the reporting requirements for the EPCRA section 313 dioxin and dioxin-like compounds category (70 FR 10919). The proposal presented three options that would allow for TEQ data to be made available to the public. TEQs are a weighted quantity value based on the toxicity of each member of the dioxin and dioxin-like compounds category relative to the most toxic members of the category, i.e., 2,3,7,8-tetrachlorodibenzo-p-dioxin and 1,2,3,7,8-pentachlorodibenzo-p-dioxin. In order to calculate a TEQ, a toxic equivalent factor (TEF) is assigned to each member of the dioxin and dioxin-like compounds category. TEFs have been established through international agreements, and currently range from 1 to 0.0001. A TEQ is calculated by multiplying the actual grams weight of each dioxin and dioxin-like compound by its corresponding TEF and then summing the results. The number that results from this calculation is referred to as grams TEQ.

A. What Options Did EPA Propose for Making TEQ Data Available?

EPA discussed three options for making TEQ data available to the public for the TRI dioxin and dioxin-like compounds category. Under Option 1, EPA would require that, in addition to reporting the total grams of the dioxin and dioxin-like compounds category, if a facility has information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds, the facility must report the TEQ calculated from that distribution for the category. Under Option 2, in addition to reporting the total grams of the dioxin and dioxin-like compounds category, if a facility has information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds, the facility must report: (1) The total grams for each member of the category; and (2) the TEQ calculated from that distribution for the category. Under Option 3, the only additional data facilities would need to provide is the individual grams data for each member of the dioxin and dioxin-like compounds category; facilities would not have to calculate and report the TEQ data. Under Option 3, EPA would generate the corresponding TEQ data from the individual grams data reported by the facility and include that TEQ data in the TRI database along with all the grams data reported by the facility. The TEQ data would be provided to the public along with the facility-reported data and EPA would include TEQ data in all of EPA's publications that contain TRI data on dioxin and dioxin-like compounds.

B. What Was EPA's Preferred Option?

EPA stated in the March 7, 2005 notice that Option 3 was the Agency's preferred option for several reasons. First, facilities would not have the burden of tracking TEFs and calculating the TEQ data from the grams data; instead, this burden would be assumed by the Agency. Second, EPA would not have to incorporate the TEF values into the regulations, and therefore would not need to go through rulemaking in order to adopt any internationally accepted revisions. Third, if EPA does all the TEQ calculations electronically there should be fewer errors and improved

data quality, both because there would be fewer opportunities for computational errors, and because there would be less potential for confusion about which were the applicable TEFs as these values change over time. Finally, if EPA calculates the TEQ data rather than having facilities report the data, EPA can recalculate the TEQ data for all of the reporting years once new TEF values are available.

C. What TEF Values Did EPA Propose To Use To Calculate TEQ Data?

EPA proposed to use the TEF scheme developed by the World Health Organization (WHO) in 1998 (Ref. 1). At the time the proposed rule was published, the WHO 1998 scheme was the most recent internationally agreed upon TEF scheme. The TEF values for the members of the dioxin and dioxin-like compounds category under the WHO 1998 scheme are listed below (presented in the order of Chemical Abstracts Service (CAS) Registry Number, chemical name, and TEF value). Since publication of the proposed rule the WHO revised the TEF values in 2005 (Ref. 2). The new WHO 2005 TEF values include four changes to the WHO 1998 values. The changes are listed below in parentheses. In computing TEQs, the agency will use the WHO 2005 TEF values.

01746–01–6, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1.0;
40321–76–4, 1,2,3,7,8-pentachlorodibenzo-p-dioxin, 1.0;
39227–28–6, 1,2,3,4,7,8-hexachlorodibenzo-p-dioxin, 0.1;
57653–85–7, 1,2,3,6,7,8-hexachlorodibenzo-p-dioxin, 0.1;
19408–74–3, 1,2,3,7,8,9-hexachlorodibenzo-p-dioxin, 0.1;
35822–46–9, 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin, 0.01;
03268–87–9, 1,2,3,4,6,7,8,9-octachlorodibenzo-p-dioxin, 0.0001 (0.0003);
51207–31–9, 2,3,7,8-tetrachlorodibenzofuran, 0.1;
57117–41–6, 1,2,3,7,8-pentachlorodibenzofuran, 0.05 (0.03);
57117–31–4, 2,3,4,7,8-pentachlorodibenzofuran, 0.5 (0.3);
70648–26–9, 1,2,3,4,7,8-hexachlorodibenzofuran, 0.1;
57117–44–9, 1,2,3,6,7,8-hexachlorodibenzofuran, 0.1;
72918–21–9, 1,2,3,7,8,9-hexachlorodibenzofuran, 0.1;
60851–34–5, 2,3,4,6,7,8-hexachlorodibenzofuran, 0.1;
67562–39–4, 1,2,3,4,6,7,8-heptachlorodibenzofuran, 0.01;
55673–89–7, 1,2,3,4,7,8,9-heptachlorodibenzofuran, 0.01;
39001–02–0, 1,2,3,4,6,7,8,9-octachlorodibenzofuran, 0.0001 (0.0003).

D. What Other Changes Did EPA Propose?

EPA proposed to collect the additional data for the dioxin and dioxin-like compounds category on a new Form R–D reporting form designed specifically for reporting for this category. The new form would include all the data reported on a Form R plus the additional data EPA proposed to collect under either Options 1, 2, or 3. EPA also proposed to require that all reports for the dioxin and dioxin-like compounds category be filed electronically either through the EPA's Central Data Exchange (CDX) or on diskette. The only other change EPA proposed was to eliminate Section 1.4 from the Form R. Section 1.4 requires reporting a generic distribution of the chemicals included in the dioxin and dioxin-like compounds category, which would no longer be needed under any of the options discussed in the proposed rule.

IV. What Reporting Requirements Has EPA Included in the Final Rule?

This final rule is based upon the reporting requirements of Option 3 from the proposed rule. The final rule requires the reporting of the mass quantities for each individual member of the dioxin and dioxin-like compounds category for each reportable release or waste management activity. Facilities are not required to report any TEQ data. Rather than using a new Form R–D, the final rule requires the reporting of this information on a new four page Form R Schedule 1 (Ref. 3) that is to be submitted as an adjunct to the existing Form R to report for the dioxin and dioxin-like compounds category. Facilities that have any of the information required by this final rule must submit a Form R Schedule 1 in addition to the Form R. EPA is also modifying the Form R by eliminating the generic distribution data reported for the dioxin and dioxin-like compounds category under Section 1.4. EPA is strongly encouraging, but not requiring, that reports for the dioxin and dioxin-like compounds category be filed electronically.

V. For Which Reporting Year Do the Requirements of This Final Rule Apply?

The reporting requirements of this final rule apply to the reporting year beginning January 1, 2008 (for which reports are due July 1, 2009), and to subsequent reporting years. EPA has delayed the implementation of the reporting requirements of this final rule in order to provide sufficient time and resources to make required changes to the TRI database and the TRI–Made Easy (TRI–ME) reporting software. In addition, delaying the implementation will allow more time for the regulated community to become fully aware of the new reporting requirements. The additional time to prepare for the reporting changes should also promote more accurate and consistent reporting.

VI. What Comments Did EPA Receive on the Proposed Rule and What Are EPA's Responses to Those Comments?

EPA received twenty-three comments on the proposed rule. The comments were split into two basic groups; those that generally agreed with one or more of EPA's proposed options and those that disagreed with EPA's proposed options. Of the twenty-three comments received, eighteen were from specific companies or industry groups, three were from environmental organizations, one was from a State agency, and one was from a private citizen. Fifteen of the comments received supported one or more of EPA's proposed options (either Option 2 or 3) while the other eight comments either supported some option that EPA did not propose or did not support any changes to the reporting requirements for the dioxin and dioxin-like compounds category. The following sections of this unit summarize and respond to significant comments. The complete comments and responses can be found in EPA's response to comments document (Ref. 4).

A. What Comments Did EPA Receive Concerning the Proposed Options?

None of the commenters supported proposed Option 1, which would have added TEQ data to the reporting requirements for the dioxin and dioxin-like compounds. The inability to recalculate the TEQ values when TEF values change was a primary reason cited by commenters for why Option 1 was not supported. Eight commenters did not support any of EPA's proposed options, although one of these commenters supported Option 2 if the reporting were voluntary. These commenters either did not support the collection of any TEQ data or suggested alternative ideas for making TEQ data available. A majority of the commenters (15 out of 23) supported either proposed Option 2 or Option 3. EPA believes that Option 3 provides the same level of data as Option 2 at a lower cost to industry while providing the flexibility needed to perform new TEQ calculations if TEF values change in the future. Many of the

commenters that favored Option 2 over Option 3 cited the ability of the facility to check the TEQ values and/or having the TEQ values available with the first public release of the TRI data as reasons they preferred Option 2 over Option 3. As resources allow, EPA intends to address both of these concerns by taking the following actions: (1) providing a TEQ calculator within the Agency's TRI–ME TRI reporting software, so that facilities will be able to see the TEQ values that EPA will calculate from the facility's reported grams data; and (2) making the TEQ values available to the public starting with the first public release of the data (which is currently the electronic Facility Data Release). EPA believes that these actions address most of the issues raised by those commenters that favored Option 2 over Option 3. Some commenters were also concerned about the TEF values not being included in the regulatory text and felt they should be included so that there would be a formal process before EPA could change the TEF values. EPA has not included the TEF values in the regulatory text since facilities are not required to report TEQ data under this final rule; the TEF values thus do not affect TRI reporting obligations. While the TEF values are not part of the final rule, EPA plans to give public notice of any changes to the TEF values. There has been a strong consensus from the commenters that the TEF values developed by the WHO are the best values to use. The most recent WHO TEF values were developed in 2005 and are the values that EPA plans to use in calculating TEQ values (Ref. 2). EPA does not anticipate changing those values unless there is strong international consensus to do so.

B. What Other Options Were Suggested in the Comments Received?

1. *TEQ only reporting.* Four commenters stated that EPA should not collect any grams data at all, but rather should collect only TEQ values.

Agency response: Reporting only TEQ values would not address the issue of what happens to the TEQ data once the TEF values change. With TEQ only reporting, once the TEFs change, the previously reported TEQ values would no longer be valid, and no comparisons could be made. In addition, if EPA does all the TEQ calculations electronically there should be fewer errors and improved data quality, both because there would be fewer opportunities for computational errors, and because there would be less potential for confusion about which were the applicable TEFs. The collection of the individual mass data for each member of the category, rather than just TEQ values, also allows data users to understand which chemicals are contributing most to the TEQ value.

The October 29, 1999, rulemaking that finalized the addition of the dioxin and dioxin-like compounds category (64 FR 58666) required reporting in grams of the total dioxin releases. The rationale for selection of that reporting format was articulated in the **Federal Register** (64 FR 58700–58704).

2. *Reporting TEQ values based on Section 1.4 data.* Three commenters proposed alternative options for reporting TEQ values that involved various methods of utilizing or modifying the generic single distribution data reported under Section 1.4 of the Form R to calculate TEQ values. The alternative options proposed by these commenters included: (1) using the current generic Section 1.4 data to calculate and report TEQ values in addition to the current total grams data; (2) using the Section 1.4 data to calculate and report TEQ values rather than any grams data; and (3) using Section 1.4 to report grams for the individual members of the category based on the distribution most representative at the facility (rather than reporting a percentage as currently required) and then using those data to calculate a total TEQ value for the facility.

Agency response: EPA does not believe that any of these suggested alternative options constitute an improvement over the methodology that EPA is finalizing today. Regarding the use of the current Section 1.4 data, EPA's current method of reporting a generic distribution in Section 1.4 can already be applied to all the reported release and waste management data elements to calculate TEQ values for all releases and waste management quantities. However, many industry groups have complained that the single generic distribution data from Section 1.4 does not provide an accurate method of calculating or reporting TEQ values, since the distributions of the individual category compounds can vary significantly for different types of releases and waste management activities. That is the reason that EPA has not used the Section 1.4 data to calculate TEQ values and provide them to the public and one of the reasons some industry groups requested a change in the reporting requirements.

If only TEQ values were to be collected, the TEQ values would not be based on data collected under Section 1.4. Section 1.4 provides a generic distribution that may be specific to one particular release or waste management quantity or may be a facility average. If TEQ values were the only information being collected, they would need to be specific to each reported release or waste management quantity. In addition, EPA is concerned that, since many facilities (approximately 25%) were unable to report any distribution data for the dioxin and dioxin-like compounds category in Section 1.4 of the Form R, those facilities may not be able to report TEQ values. Therefore, if EPA could collect only TEQ data, those facilities not currently reporting a generic distribution would not report anything.

Regarding the proposed alternative to change the Section 1.4 data from percentages to total gram quantities for each member of the category, EPA does not understand how the commenter's proposed alternative method would work. Collecting individual grams data in Section 1.4 based on some kind of total grams data for the facility would not provide TEQ values for all of the release and waste management quantities since those quantities are based on the gram quantities reported for each data element. The commenter's method would only provide a total TEQ value for the facility based on the facility's total grams reported for each dioxin and dioxin-like compound. A facility total TEQ value combines all releases and waste management quantities resulting in a TEQ value of limited use since the type of release or waste management activity can significantly impact potential exposures. Changing the units of Section 1.4 from a percentage distribution to an individual grams distribution actually reduces the utility of the Section 1.4 data, since the data cannot be used to calculate TEQ values for the individual release and waste management quantities without conversion back to percentages.

C. What Legal Issues Were Raised by the Commenters?

1. *Authority to have more than one reporting form.* Two commenters questioned EPA's authority to have more than one reporting form. The commenters cited EPCRA section 313(g) which states that ''* * * the Administrator shall publish a uniform toxic chemical release form for facilities covered by this section * * *'' The commenters contend that the Form R–D would be a unique form and thus EPA would not be providing a ''uniform'' toxic chemical release form for purposes of reporting under EPCRA section 313.

Agency response: The issue of whether the new form violates the requirement in Section 313(g) that EPA

publish a ''uniform toxic chemical release form'' is now moot, because EPA is not developing a new reporting form but is instead modifying the existing Form R by adding a schedule that is to be used by those facilities that report for the dioxin and dioxin-like compounds category and that have the information required by the final rule. The pages of the new Form R Schedule 1 are like any other pages of the Form R in that if a facility has the information required on a certain page they must fill out that page and if they do not have the necessary information then the page is left blank.

2. *Authority to collect data on individual members of a listed category on one reporting form.* One commenter questioned EPA's authority for collecting the annual quantity of each compound within a chemical category being released to each environmental medium on one reporting form. The commenter stated that this is precedent-setting or in terms of Executive Order 12866, it raises ''novel legal or policy issues'' and thus should be subject to OMB review as a significant regulatory action. The commenter suggested that if EPA wants to collect extensive data on 17 compounds, then it should go through the rulemaking process to list each compound separately as a TRI chemical, and ensure each compound meets the criteria for listing.

Agency response: EPA has broad authority to determine how information regarding the members of a chemical category shall be reported (see, e.g., general regulatory authority in EPCRA section 328). Dioxin and dioxin-like compounds occur as a mixture of the members of the category, they are not manufactured, processed, or otherwise used as separate compounds (except for laboratory testing purposes), so the most logical way to report is as a category on one reporting form. EPA already collects specific information on each member of the dioxin and dioxin-like compounds category on the current Form R. This rule only breaks down that information by reportable release or waste management activity. EPA notes that when the Agency via rulemaking added the dioxin and dioxin-like compounds category, it made an express finding that all members of the category met the EPCRA section 313 listing criteria and specifically listed the 17 members of the category (62 FR 24887, May 7, 1997; and 64 FR 58695, October 29, 1999).

Nor is additional rulemaking required in order to collect additional information on one form: The proposed rule and this final rule constitute the necessary rulemaking to collect additional information on members of the dioxin and dioxin-like compounds category on one form.

Regarding Executive Order 12866, OMB has concurred in EPA's determination that this action is not a ''significant regulatory action,'' as defined in EO 12866.

3. *Authority to collect TEQ data.* One commenter does not believe that EPA has the statutory authority to require the reporting of TEQ data for the dioxin and dioxin-like compound category. The commenter stated that the EPCRA section 313 statute and the congressional history only requires the reporting of releases as quantities or amounts of the toxic chemical, and that TEQs are not a quantity or release but an estimate of the risk of dioxin and dioxin-like compounds.

Agency response: EPA disagrees with the commenter's position that EPA does not have the authority to collect TEQ data. But given that EPA is finalizing Option 3 of the proposed rule, which does not require the reporting of TEQ data, the question is moot. Under this option EPA is not collecting any TEQ data and is collecting only individual grams data for the members of the dioxin category. EPA notes that TEQ values alone are not risk data. Rather, TEQ values provide a method to consider the relative hazards of the different members of the category to the most toxic members of the category; relative risk would need to consider exposure.

D. What Other Issues Did the Commenters Raise?

1. *Form R–D.* Nearly all commenters were opposed to EPA's proposed 10-page Form R–D, including most commenters that supported one or more of EPA's proposed options for making TEQ values available to the public. Those commenters that supported one or more of EPA's proposed options felt that only minor changes to the Form R should be made to capture the additional data.

Agency response: EPA did consider making changes to the existing Form R, but there is no way to readily adapt the Form R to capture all the new data elements. The Form R would need to be expanded significantly to incorporate the additional data elements, which would mean that all TRI reporters would have to deal with a longer form just to capture the additional information for one chemical category. However, in response to commenters who do not wish to have an entirely new form for reporting the additional dioxin data, EPA has decided not to proceed with the Form R–D. Instead, EPA has developed a four-page schedule called the Form R Schedule 1, which captures all the additional information required under the final rule. Most commenters wanted little or no changes to the existing Form R. Since the new data are collected on a separate schedule rather than on the main part of the Form R, there will be little change to the main part of the Form R. Facilities are only required to report additional information on the Form R Schedule 1 to the extent that they have readily available or can reasonably estimate the additional information.

2. *Electronic reporting.* EPA proposed to require that all reports for dioxin and dioxin-like compounds be filed electronically. EPA believes that electronic reporting will help reduce the potential for errors that may occur when EPA contractors enter the grams data for the individual members of the dioxin and dioxin-like compounds category. However, nearly all of the commenters objected to EPA requiring that all reports for dioxin and dioxin-like compounds be filed electronically.

Agency response: While EPA strongly encourages the use of electronic reporting, the final rule does not require electronic reporting. EPA notes that hard copy forms significantly slow down data processing, increase EPA costs, and increase the potential for errors. EPA strongly encourages those facilities that decide to report using hard copy to carefully check their electronic Facility Data Profiles each year to make sure that no errors have occurred during data input.

3. *Distribution reporting scheme.* Several commenters requested that EPA modify the proposed Form R–D by reconfiguring the reporting scheme used in Section 1.4 of Form R to conform to that used in common analytical reports. Specifically, each dioxin member of the category should be listed in ascending order of chlorination, followed by each furan member in ascending order of chlorination.

Agency response: While EPA is not finalizing the Form R–D or requiring that facilities report TEQ values, EPA will adjust the numbering scheme for the members of the dioxin and dioxin-like compounds category to be consistent with typical reporting schemes that list the members in order of ascending chlorination (see list below).

Number	CAS No.	Chemical name	Abbreviation
1	01746–01–6	2,3,7,8-Tetrachlorodibenzo-p-dioxin	2,3,7,8-TCDD
2	40321–76–4	1,2,3,7,8-Pentachlorodibenzo-p-dioxin	1,2,3,7,8-PeCDD
3	39227–28–6	1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin	1,2,3,4,7,8-HxCDD
4	57653–85–7	1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin	1,2,3,6,7,8-HxCDD
5	19408–74–3	1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin	1,2,3,7,8,9-HxCDD
6	35822–46–9	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin	1,2,3,4,6,7,8-HpCDD
7	03268–87–9	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	1,2,3,4,6,7,8,9-OCDD
8	51207–31–9	2,3,7,8-Tetrachlorodibenzofuran	2,3,7,8-TCDF
9	57117–41–6	1,2,3,7,8-Pentachlorodibenzofuran	1,2,3,7,8-PeCDF
10	57117–31–4	2,3,4,7,8-Pentachlorodibenzofuran	2,3,4,7,8-PeCDF
11	70648–26–9	1,2,3,4,7,8-Hexachlorodibenzofuran	1,2,3,4,7,8-HxCDF
12	57117–44–9	1,2,3,6,7,8-Hexachlorodibenzofuran	1,2,3,6,7,8-HxCDF
13	72918–21–9	1,2,3,7,8,9-Hexachlorodibenzofuran	1,2,3,7,8,9-HxCDF
14	60851–34–5	2,3,4,6,7,8-Hexachlorodibenzofuran	2,3,4,6,7,8-HxCDF
15	67562–39–4	1,2,3,4,6,7,8-Heptachlorodibenzofuran	1,2,3,4,6,7,8-HpCDF
16	55673–89–7	1,2,3,4,7,8,9-Heptachlorodibenzofuran	1,2,3,4,7,8,9-HpCDF
17	39001–02–0	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	1,2,3,4,6,7,8,9-OCDF

This should make it easier for facilities to transfer data from analytical reports to the new Form R Schedule 1.

4. *Economic Costs.* One commenter stated that EPA estimates a modest cost to comply with any of the three options included in the proposed rule. The commenter noted that the industry costs range from about $122,000 to about $170,000 for the first year, while EPA estimates that its own initial cost for implementing the new reporting form would be approximately $1.15 million. The commenter stated that the EPA cost estimate for the Agency is therefore nearly an order of magnitude greater than the estimated total industry cost for the first year. Considering that EPA estimates over 480 parent companies are to be impacted by the reporting requirements, it appears to the commenter that the total industry cost for the first year is substantially underestimated.

Agency response: EPA believes that its estimate for total industry first year cost is reasonable, based on the best engineering judgment used to complete the Form R Schedule 1. The Agency's methodology is transparent and described in detail in Section 4 of the economic analysis (Ref. 5). Section 5 of the economics analysis describes in detail what steps are performed under each of the options and provides estimates for rule familiarization, form completion and recordkeeping cost, and burden. Apart from comparing the estimated industry compliance cost to the administrative cost EPA is estimated to incur, the commenter does not provide any basis for the assertion that total industry cost is underestimated. The Agency does not believe that the proportion of compliance cost to administrative cost is germane to the reasonableness of the Agency's cost and burden estimate for this rulemaking.

Two commenters stated that EPA did not consider industry costs for the reprogramming of their TRI reporting software. One commenter stated that EPA failed to include in its economic impacts any costs incurred by the States that maintain electronic databases and which accept TRI data electronically.

Agency response: The commenters are correct that the Agency did not quantify costs that industry may incur if they need to reprogram their own reporting software. EPA believes that overall such costs should be small since 90 percent of respondents currently use EPA's free TRI–ME reporting software to submit their Form Rs, and EPA will be providing a new version of TRI–ME that accommodates the new dioxin reporting requirements. Similarly, EPA did not quantify any State administrative cost associated with updating their electronic databases. However, if a State has its own electronic database and is not able to update it to accommodate the new format for dioxin data, EPA will work with the State on a case-by-case basis to try to provide the data to it in a format it can use. EPA notes that the new format is more useful (because it includes individual grams data for each dioxin and dioxin-like compound and will also include EPA's calculated TEQ values) and hopes that States will find it in their interest and the interest of their citizens to update their databases to accommodate the new format.

One commenter stated that EPA took comment in March 2005, on a proposal to revise Form R for the purpose of burden reduction. The commenter claimed that the increase in burden as per the proposed rule will totally negate any benefits of the earlier proposal and actually increase overall burden. The commenter stated that if EPA finalizes the Form R–D and if the burden reduction changes are eventually made to Form R, they would expect such changes to also be incorporated into Form R–D.

Agency response: EPA is not revising the Form R, except to drop Section 1.4. The Phase I Burden Reduction final rule issued in July 2005, applies to all TRI reporters, not just those that report for dioxin and dioxin-like compounds, so this final rule does not negate all the benefits from the Phase I Burden Reduction final rule. The Agency disagrees with the commenter that the burden increase from this rulemaking will negate any benefit from the Phase 1 Burden Reduction rulemaking. The Agency estimated that the Phase 1 Burden Reduction rule will reduce burden by 52,000 hours whereas the increase in burden from this final rule is estimated at 3,383 hours. The Phase 2 Burden Reduction rule (71 FR 76932, December 22, 2006), which expands eligibility for Form A certification for some chemical reports, specifically excludes dioxin and dioxin-like compounds, so it does not affect and is not affected by the changes in today's rule.

VII. What Economic Considerations Are Associated With This Action?

EPA has evaluated the additional burden hours, cost, and potential benefits associated with the use of Form R Schedule 1, in addition to the Form R, for EPCRA section 313 reporting on the dioxin and dioxin-like compounds category. The economic analysis was revised to reflect the fact that this final rule does not create a new Form R-D for all facilities reporting for the dioxin and dioxin-like compounds category, but rather requires reporting of the new information on the four-page Form R Schedule 1 (Ref. 5). While the incremental costs did not change significantly, the presentation of the costs was changed to consider only the incremental costs associated with filling

a Form R Schedule 1. Only the costs associated with this final rule are presented below, however, the economic analysis includes the costs for all three of the options discussed in the proposed rule. This final rule is based on Option 3 of the proposed rule which is the least costly of the three options that EPA proposed. This final rule requires facilities to report the mass in grams of each of the 17 individual members of the category for sections 5, 6, and 8 (current year only) of the existing Form R on the new Form R Schedule 1, when such information is readily available or can be reasonably estimated.

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

This final rule requires that, in addition to the activities already conducted as part of the reporting This final rule requires that, in addition to the activities already conducted as part of the reporting process for Form R, a facility filing the Form R Schedule 1 would be required to report the mass in grams of each of the 17 chemicals in sections 5, 6, and 8 of Form R Schedule 1. The facility would not be required to obtain the TEF values or conduct additional multiplication and addition to calculate total grams TEQ to submit to the Agency. For reporting year 2003, there were 1,268 facilities that filed Form Rs for the dioxin and dioxin-like compounds category. Of these facilities, 75 percent (956 facilities) completed Section 1.4 of the Form R, containing generic distribution information on the members of the category. Since these 956 facilities indicated through their completion of Section 1.4 that they have information on the distribution of the quantities of the individual members of the dioxin and dioxin-like compounds category, EPA expects that these facilities are most likely to incur additional burden and cost associated with form completion and record keeping for Form R Schedule 1 in the first and subsequent reporting years. All 1,268 facilities are expected to experience additional burden and cost associated with rule familiarization in the first year of implementation.

In previous Information Collection Requests, EPA has estimated that, after the first year of reporting, facilities filing Form R typically spend 4 hours on compliance determination, 47.1 hours on form completion, and 5 hours on record keeping and report submission (Ref. 6). Because the Form R Schedule 1 would create new reporting requirements beyond those for the Form R, EPA expects that affected facilities would experience additional burden and cost. EPA's estimates for the additional burden associated with rule familiarization, form completion, and record keeping are shown in the following table (Ref. 5).

TABLE 1.—REPORT MASS IN GRAMS OF EACH MEMBER OF THE DIOXIN AND DIOXIN-LIKE COMPOUNDS CATEGORY IN EACH SECTION OF FORM R SCHEDULE 1

Activity	Labor category			Total unit burden	Number of facilities/ reports	Total burden
	Managerial	Technical	Clerical			
Incremental First-Year Burden (hours)						
Rule Familiarization	0.25	1.00	0.00	1.25	1,268	1,585
Form Completion	0.11	0.33	0.00	0.44	956	421
Recordkeeping	0.00	0.33	0.17	0.50	956	478
Total	0.36	1.66	0.17	2.19	.....	2,484
Incremental Subsequent-Year Burden (hours)						
Form Completion	0.11	0.33	0.00	0.44	956	421
Recordkeeping	0.00	0.33	0.17	0.50	956	478
Total	0.11	0.66	0.17	0.94	.....	899

Facilities would expend additional time in the first year to become familiar with the new reporting requirements associated with the Form R Schedule 1. A major difference between burden in first and subsequent years is attributable to rule familiarization. Rule familiarization occurs in the first year of implementation but not in subsequent years. The rule requires an underlying level of recordkeeping. It is generally expected that facilities reporting any of the new information requested on Form R Schedule 1 will be using information already in their possession. Based on the number of facilities that filed reports on dioxin and dioxin-like compounds in 2003, the percentage that reported distribution information and EPA's estimates of incremental burden, the total incremental burden of this rule would be approximately $114,000 in the first reporting year and approximately $38,000 in subsequent reporting years.

More detailed information on the derivation of these burden hour and cost estimates is available in the public docket for this action (Ref. 5).

The information collected on Form R Schedule 1 will allow EPA to calculate grams TEQ values and provide that data to the public. The mass in grams data collected on Form R Schedule 1 will provide important information on which specific chemicals in the category are contributing most to the total toxicity as expressed in grams TEQ. Without these data, EPA and other data users would be unable to calculate TEQ values or determine to what extent each dioxin and dioxin-like compound is contributing to the TEQ values. These data will also allow the creation of valid time-series if TEFs are ever modified in the future as scientific understanding of the relative toxicity of the dioxin and dioxin-like compounds changes. In addition, provision of the mass in grams values will permit error checking of calculations for total grams TEQ that will enhance data quality.

VIII. References

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–TRI–2002–0001. 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. Van den Berg, M.; Birnbaum, L.; Bosveld, A.T.C.; Brunstrom, B.; Cook, P.; Feeley, M.; Giesy, J.P.; Hanberg, A.; Hasegawa, R.; Kennedy, S.W.; Kubiak, T.; Larsen, J.C.; van Leeuwen, F.X.R.; Liem, A.K.D.; Nolt, C.; Peterson, R.E.; Poellinger, L.; Safe, S.; Schren, D.; Tillitt, D.; Tysklind, M.; Younes, M.; Warn, F.; Zacharewski, T. (1998) Toxic equivalency factors (TEFs) for PCBs, PCDDs, PCDFs for humans and wildlife. Environmental Health Perspectives. 106:775–792.

2. Martin Van den Berg, Linda S. Birnbaum, Michael Denison, Mike DeVito, William Farland, Mark Feeley, Heidelore Fiedler, Helen Hakansson, Annika Hanberg, Laurie Haws, Martin Rose, Stephen Safe, Dieter Schrenk, Chiharu Tohyama, Angelika Tritscher, Jouko Tuomisto, Mats Tysklind, Nigel Walker, and Richard E. Peterson (2006), The 2005 World Health Organization Reevaluation of Human and Mammalian Toxic Equivalency Factors for Dioxins and Dioxin-Like Compounds. Toxicological Sciences 93(2), 223–24.

3. USEPA/OEI, 2006. Form R Schedule 1, March 2006 Draft.

4. USEPA/OEI, 2006. Response to Comments Received on the March 7, 2005, Proposed Rule (70 FR 10919) to Add Toxic Equivalency (TEQ) Reporting for The Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 Dioxin and Dioxin-like Compounds Category, June 19, 2006.

5. USEPA/OEI, 2006. Analysis of the Estimated Burden and Cost of Form R Schedule 1 for Dioxin and Dioxin-like Compounds; Toxic Equivalency Reporting; Community Right to Know Toxic Chemical Release Reporting, March 1, 2006.

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

IX. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2025–0007.

EPCRA section 313 (42 U.S.C. 11023) requires owners or operators of certain facilities manufacturing, processing, or otherwise using any of over 600 listed toxic chemicals and chemical categories in excess of the applicable threshold quantities, and meeting certain requirements (i.e., at least 10 Full Time Employees or the equivalent), to report certain release and other waste management activities for such chemicals annually. Under PPA section 6607 (42 U.S.C. 13106), facilities must also provide information on recycling and other waste management data and source reduction activities. The regulations codifying the EPCRA section 313 reporting requirements appear at 40 CFR part 372. Under the rule, all facilities reporting any of the new data on dioxin and dioxin-like compounds would have to use the EPA Toxic Chemical Release Inventory Form R Schedule 1 (tentative EPA Form No. 9350–3).

For Form R Schedule 1, EPA estimates the industry reporting burden for collecting this information (including recordkeeping) at 2.19 hours ($99) per response in the first reporting year and 0.94 hours ($40) in subsequent years for facilities with distribution data for the members of the category. For facilities without distribution data, the burden associated with rulemaking familiarization is estimated to average 1.25 hours ($59) per response in the first reporting year. Note that these are total per facility burden and cost estimates for the Form R Schedule 1 based on Option 3 of the proposed rule. This rule is estimated to cause 956 facilities to file a Form R Schedule 1. Under this rule, Form R Schedule 1 reporting is associated with a total burden of approximately 2,484 hours in the first year, and 899 hours in subsequent years, at a total estimated industry cost of $114 thousand in the first year and $38 thousand in subsequent years. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citations for the information requirements contained in this final rule.

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

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a business that is classified as a ''small business'' by the Small Business Administration at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This rule is expected to affect the 469 parent companies that own the 1,268 facilities that report on dioxin and dioxin-like compounds. Of the affected parent companies, approximately 19 percent, or 90 companies, are small businesses as defined by the Small Business Administration. No small governments or small organizations are expected to be affected by this action. Based on the selected Option 3, each affected facility is expected to expend approximately 2.19 hours in the first year and 0.94 hours in subsequent years to comply with the additional reporting requirements. Based on the incremental cost estimates for these burden hours, the number of facilities owned by each small business, and the annual revenues of the affected small businesses, all 90 affected small businesses are expected to experience incremental cost impacts of less than one percent of annual revenues (Ref. 5).

After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We continue to be interested in the potential impacts of the final rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

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

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13211 (Energy Effects)

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

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

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

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

I. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The final rulemaking does not require the reporting of TEQ data and therefore does not involve technical standards.

J. 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 July 9, 2007.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 372

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

Dated: May 3, 2007.

Stephen L. Johnson,

Administrator.

■ Therefore, Title 40 Chapter 1 of the Code of Federal Regulations is amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1 the table is amended by revising the entries under the heading ''Toxic Chemical Release Reporting: Community Right-to-Know'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * * * *	
Toxic Chemical Release Reporting: Community Right-to-Know	
Part 372, subpart A	2070–0093, 2070–0143, 2025–0007
372.22	2070–0093, 2070–0143, 2025–0007
372.25	2070–0093, 2025–0007
372.27	2070–0143
372.30	2070–0093, 2070–0143, 2025–0007
372.38	2070–0093, 2070–0143, 2025–0007
Part 372, subpart C	2070–0093, 2070–0143, 2025–0007
Part 372, subpart D	2070–0093, 2070–0143, 2025–0007
372.85	2070–0093, 2025–0007
372.95	2070–0143

* * * * *

PART 372—[AMENDED]

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

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

Subpart B—[Amended]

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

§ 372.30 Reporting requirements and schedule for reporting.

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

* * * * *

Subpart E—[Amended]

■ 3. Section 372.85 is amended as follows:

■ a. Revise paragraph (a).

■ b. Revise paragraph (b) introductory text.

■ c. Revise paragraph (b)(14)(ii).

■ d. Revise paragraphs (b)(15)(i)(B), and (b)(15)(ii)(B).

§ 372.85 Toxic chemical release reporting form and instructions.

(a) *Availability of reporting form and instructions.* The most current version of Form R and Form R Schedule 1 may be found on the following EPA Program Web site, *http://www.epa.gov/tri.* Any subsequent changes to the Form R or Form R Schedule 1 will be posted on this Web site. Submitters may also contact the TRI Program at (202) 564–9554 to obtain this information.

(b) *Form elements.* Information elements reportable on EPA Form R and Form R Schedule 1, or equivalent magnetic media format include the following:

* * * * *

(14) * * *

(ii) Additional Reporting for the dioxin and dioxin-like compounds category.

(A) For reports pertaining to a reporting year ending on or before December 31, 2007, report a distribution of the chemicals included in the dioxin and dioxin-like compounds category. Such distribution shall either represent the distribution of the total quantity of dioxin and dioxin-like compounds released to all media from the facility; or its one best media-specific distribution.

(B) For reports pertaining to a reporting year ending after December 31, 2007, report the quantity of each member of the dioxin and dioxin-like compounds category in units of grams per year on Form R Schedule 1.

* * * * *

(15)(i) * * *

(B) An estimate of the amount of the chemical transferred in pounds (except for dioxin and dioxin-like compounds, which shall be reported in grams) per year (transfers of less than 1,000 pounds per year may be indicated as a range, except for chemicals set forth in § 372.28) and an indication of the basis of the estimate. In addition, for reports pertaining to a reporting year ending after December 31, 2007, report the quantity of each member of the dioxin and dioxin-like compounds category in units of grams per year on Form R Schedule 1.

* * * * *

(15)(ii) * * *

(B) An estimate of the amount of the chemical transferred in pounds (except for dioxin and dioxin-like compounds, which shall be reported in grams) per year (transfers of less than 1,000 pounds per year may be indicated as a range, except for chemicals set forth in § 372.28) and an indication of the basis of the estimate. In addition, for reports pertaining to a reporting year ending after December 31, 2007, report the quantity of each member of the dioxin and dioxin-like compounds category in units of grams per year on Form R Schedule 1.

* * * * *

[FR Doc. E7–9015 Filed 5–9–07; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[MB Docket No. 03–15; RM–9832; FCC 07–69]

Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion To Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules requiring sellers of analog-only TV equipment to label or post signs at point of sale disclosing limitations after the February 17, 2009 deadline for the transition from analog to digital television service. The Commission states that sellers must advise consumers at point of sale if the television equipment includes only an analog tuner that will require a converter box to receive over-the-air-broadcast-television after the deadline.

DATES: The rules in 47 CFR 15.117(k) contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FCC will publish a document announcing the effective date.

ADDRESSES: You may submit comments, identified by MB Docket No. 03–15, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Eloise Gore, *Eloise.Gore@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (Order), FCC 07–69, adopted on, April 25, 2007, and released on May 3, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. The Commission will publish a separate document in the **Federal Register** at a later date seeking these comments. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Summary of the Report and Order

I. Introduction

1. In this *Second Report and Order in the Second DTV Periodic Review*, we take up the issue of labeling of television receiving equipment, which was raised in *the Second DTV Periodic NPRM*, 68 FR 7737–01. This Order applies to televisions, television receivers, and other television receiving equipment, which includes television