

Subpart I—[Amended]

2. Section 98.94 is amended by revising paragraphs (a)(2)(iii), (a)(3)(iii), and (a)(4)(iii) to read as follows:

§ 98.94 Monitoring and QA/QC requirements.

(a) * * *

(2) * * *

(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that by July 1, 2011, it is not reasonably feasible to acquire, install, or operate the required piece of monitoring equipment, or procure necessary measurement services to comply with the requirements of this subpart.

(3) * * *

(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that by December 31, 2011 it is not reasonably feasible to acquire, install, or operate the required piece of monitoring equipment or procure necessary measurement services to comply with the requirements of this subpart.

(4) * * *

(iii) *Approval criteria.* To obtain approval, the owner or operator must demonstrate to the Administrator's satisfaction that by December 31, 2011 (or in the case of facilities that are required to calculate and report emissions in accordance with § 98.93(a)(2)(ii)(A), December 31, 2012), it is not reasonably feasible to acquire, install, or operate the required piece of monitoring equipment according to the requirements of this subpart.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 302

[EPA-HQ-SFUND-2011-0965; FRL-9636-1]

Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to reinstate the maximum observed constituent concentrations for several listed hazardous wastes that were inadvertently removed from the regulations by a November 8, 2000 final rule. Also, in the "Rules and Regulations" section of this **Federal Register**, EPA is reinstating the same maximum observed constituent concentrations via a direct final rule without a prior proposed rule. If we receive no adverse comment, the direct final rule will become effective, and we will not take further action on this proposed rule.

DATES: Written comments must be received by March 23, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2011-0965, by mail to the Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at (800) 424-9346 or

TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For more detailed information on specific aspects of this proposed rule, contact Lynn Beasley at (202) 564-1965 (beasley.lynn@epa.gov), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460-0002, Mail Code 5104A.

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

This document proposes to reinstate the maximum observed constituent concentrations for several listed hazardous wastes that were inadvertently removed from the regulations by a November 8, 2000 final rule. The listed hazardous wastes and the respective reportable quantities are included in the regulations for Hazardous Substances and Reportable Quantities. We have published a direct final rule to reinstate the maximum observed constituent concentrations in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, however, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

Type of entity	Examples of affected entities
Federal Agencies	National Response Center and any Federal agency that may release or respond to releases of hazardous substances.
State and Local Governments	State Emergency Response Commissions, and Local Emergency Planning Committees.
Responsible Parties	Those entities responsible for the release of a hazardous substance from a vessel or facility. Those entities with an interest in the substances that were inadvertently removed from the table of maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 in 40 CFR 302.6(b)(1)(iii).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not

listed in the table could also be regulated. 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.

III. What does this amendment do?

This proposed rule would reinstate the maximum observed constituent concentrations for listed hazardous wastes K169, K170, K171, and K172 to the table found in 40 CFR

302.6(b)(1)(iii). A November 8, 2000 final rule (Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restriction for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Final Rule) inadvertently removed the maximum observed constituent concentrations for those listed hazardous wastes from the table in that section when it was amended to include the maximum observed constituent concentrations for listed hazardous wastes K174 and K175. (See 65 FR 67132.) The maximum observed constituent concentrations were included in the 40 CFR 302.6 regulations to allow generators, transporters, and disposal facilities handling these wastes to calculate reportable quantities (RQs) using the mixture rule¹ developed in connection with the Clean Water Act section 311 regulations. The listed hazardous wastes K169, K170, K171, and K172 and their respective RQs are included in Table 302.4—List of Hazardous Substances

and Reportable Quantities and Appendix A to section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances of Title 40 of the Code of Federal Regulations. However, the aforementioned Table 302.4 and Appendix A do not contain the maximum observed constituent concentrations. Section 302.6 is the only source of these maximum observed constituent concentrations contained in 40 CFR 302—Designation, Reportable Quantities, and Notification.

IV. Statutory and Executive Order reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

List of Subjects in 40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: February 14, 2012.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

2. In § 302.6, paragraph (b)(1)(iii), the table is amended by adding entries K169, K170, K171, and K172 in numerical order to read as follows:

§ 302.6 Notification requirements.

- * * * * *
- (b) * * *
- (1) * * *
- (iii) * * *

Waste	Constituent	Max ppm
K169	Benzene	220.0
K170	Benzene	1.2
	Benzo (a) pyrene	230.0
	Dibenz (a,h) anthracene	49.0
	Benzo (a) anthracene	390.0
	Benzo (b) fluoranthene	110.0
	Benzo (k) fluoranthene	110.0
	3-Methylcholanthrene	27.0
K171	7, 12-Dimethylbenz (a) anthracene	1,200.0
	Benzene	500.0
K172	Arsenic	1,600.0
	Benzene	100.0
	Arsenic	730.0

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA-HQ-OPPT-2012-0135; FRL-9339-5]

Fishing Tackle Containing Lead; Disposition of Petition Filed Pursuant to TSCA Section 21

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition, reasons for Agency response.

SUMMARY: On November 17, 2011, EPA received a petition from the Center for Biological Diversity, the Loon Lake Loon Association, and Project Gulpile (petitioners). The petitioners cited section 21 of the Toxic Substances Control Act (TSCA) and requested EPA to initiate a rulemaking under section 6(a) of TSCA applicable to fishing tackle containing lead (e.g., fishing weights, sinkers, lures, jigs, and/or other fishing tackle), of various sizes and uses that are ingested by wildlife, resulting in lead exposure. After careful consideration, EPA denied the petition by letter dated

¹ 44 FR 50767, Aug. 29, 1979, Final Rulemaking; Water Programs; Determination of Reportable Quantities for Hazardous Substances; and 50 FR 13463, Apr. 4, 1985, Final rule; Notification

Requirements; Reportable Quantity Adjustments. Discharges of mixtures and solutions are subject to these regulations only where a component hazardous substance of the mixture or solution is

discharged in a quantity equal to or greater than its reportable quantity.