

normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

### Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### Background

Current airspace design is primarily based on airport terminal areas and airways, often leaving small areas of uncontrolled airspace between airports. Class E en route domestic airspace provides controlled airspace in those areas where there is a requirement to provide IFR en route air traffic control services but the Federal airway structure is inadequate.

Numerous smaller Class E en route areas have been established to provide controlled airspace where the airway structure is inadequate; however, additional areas of uncontrolled airspace have been discovered due to technological improvements in locating and mapping. Also, as aging ground-based navigation aids are removed from service, the airway structure is reduced, uncovering larger areas of uncontrolled airspace.

### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 to establish Class E en route airspace extending upward from 1,200 feet above the surface at the Denver ARTCC, Denver, CO, to support en route IFR operations where the airway structure is inadequate. This proposal would allow the most efficient routing between airports without reducing margins of safety or requiring additional coordination and pilot/controller workload. This action is necessary to ensure the safety and management of controlled airspace within the National Airspace System as it transitions from ground based navigation aids to satellite-based Global Navigation Satellite System for navigation.

Class E airspace designations are published in paragraph 6006 of FAA

Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### **§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 6006 Class E En Route Domestic Airspace Areas.*

\* \* \* \* \*

#### **ANM CO E6 Denver, CO [New]**

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 44°57'30" N., long. 103°10'00" W.; to lat. 44°42'00" N., long. 101°29'00" W.; to lat. 43°42'30" N., long. 101°24'30" W.; to lat. 43°17'20" N., long. 100°06'00" W.; to lat. 42°00'00" N., long. 099°01'00" W.; to lat. 39°59'00" N., long. 099°03'30" W.; to lat. 39°28'00" N., long. 098°48'00" W.; to lat. 37°30'00" N., long. 102°33'00" W.; to lat. 36°43'00" N., long. 105°00'00" W.; to lat. 36°43'00" N., long. 106°05'00" W.; to lat. 36°12'00" N., long. 107°28'00" W.; to lat. 36°02'00" N., long. 108°13'00" W.; to lat. 35°42'00" N., long. 110°14'00" W.; to lat. 35°46'00" N., long. 111°50'30" W.; to lat. 36°25'15" N., long. 111°30'15" W.; to lat. 36°44'00" N., long. 111°36'30" W.; to lat. 37°24'45" N., long. 111°52'45" W.; to lat. 37°50'00" N., long. 110°53'00" W.; to lat. 38°07'45" N., long. 110°09'25" W.; to lat. 38°12'00" N., long. 109°59'00" W.; to lat. 38°56'00" N., long. 109°59'00" W.; to lat. 39°13'00" N., long. 109°59'00" W.; to lat. 39°35'00" N., long. 110°18'00" W.; to lat. 40°00'00" N., long. 109°10'00" W.; to lat. 40°51'00" N., long. 109°06'00" W.; to lat. 41°22'00" N., long. 108°16'30" W.; to lat. 41°36'30" N., long. 108°00'00" W.; to lat. 42°25'00" N., long. 107°03'00" W.; to lat. 43°53'00" N., long. 107°17'00" W.; to lat. 44°19'00" N., long. 106°16'00" W.; to lat. 45°14'15" N., long. 106°00'00" W.; to lat. 45°07'00" N., long. 104°15'00" W.; thence to the point of beginning.

Issued in Seattle, Washington, on November 2, 2016.

**Tracey Johnson,**

*Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2016–27437 Filed 11–15–16; 8:45 am]

**BILLING CODE 4910–13–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket Number USCG–2015–1061]

**RIN 1625-AA00**

#### **Safety Zone; Vigor Industrial Drydock Movement, West Duwamish Waterway; Seattle, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone in the West Duwamish Waterway in Seattle, Washington for scheduled drydock movements at Vigor Industrial. The safety zone is necessary to ensure the

safety of the maritime public and workers involved in the drydock movements. The safety zone would prohibit any person or vessel from entering or remaining in the safety zone when a notice of enforcement is issued, unless authorized by the Captain of the Port or a Designated Representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before January 17, 2017.

**ADDRESSES:** You may submit comments identified by docket number USCG–2015–1061 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Lieutenant Commander Christina Sullivan, Waterways Management Division, Sector Puget Sound, U.S. Coast Guard; telephone (206) 217–6051, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background, Purpose, and Legal Basis**

The Coast Guard periodically receives notification from Vigor Industrial regarding their scheduled drydock movements in the West Duwamish Waterway, and has established temporary safety zones to ensure the safety of the maritime public during Vigor Industrial’s operations. The Coast Guard published a temporary safety zone; Vigor Industrial Ferry Construction, West Duwamish Waterway, Seattle, WA on September 9, 2014 (79 FR 53297).

Due to the dangers involved with a large, slow moving drydock that will be maneuvering close to the shore, the Coast Guard proposes the establishment of a short term safety zone that is activated on a notice of enforcement to ensure the safety of the workers involved as well as the maritime public during Vigor Industrial’s operations.

The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231. Coast Guard Captains of the Port

are granted authority to establish safety and security zones in 33 CFR 1.05–1(f) for safety and environmental purposes as described in 33 CFR part 165.

Vigor Industrial periodically conducts drydock movements in support of its vessel launching operations in the West Duwamish Waterway in Seattle, Washington. The Coast Guard proposes to establish a safety zone to ensure the safety of the workers involved as well as the maritime public during Vigor Industrial’s operations, and would do so by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or a Designated Representative.

**III. Discussion of Proposed Rule**

The Coast Guard is establishing a safety zone encompassing all waters in a rectangle approximately 450-yards-by-500-yards at the mouth of the West Duwamish Waterway as it empties into Elliot Bay in Seattle, Washington. The safety zone is adjacent to the northeastern tip of Harbor Island in Seattle, WA.

To request permission to enter the zone during the times set out by the notice of enforcement contact the Joint Harbor Operations Center at 206–217–6001 or the Vessel Traffic Service Puget Sound on VHF Channel 14. If permission for entry is granted vessels would be required proceed at a minimum speed for navigation.

**IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone would impact a small designated area of the West Duwamish Waterway for less than 6 hours per occurrence.

From 2005 through 2015, there were a total of 10 instances in which the Coast Guard issued a safety zone for the movement of the Vigor Dry Dock. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under E.O. 13132, Federalism, if it has

a substantial direct effect 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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

This proposed rule was determined to have potential tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would impact vessel traffic in the West Duwamish Waterway. The Coast Guard consulted with the Muckleshoot tribe on this notice of proposed rulemaking. In order to reach an agreeable timeframe that avoids impacts to treaty fishing activities, the Coast Guard will consult with the Muckleshoot tribe and Vigor Industrial once it receives notification from Vigor Industrial concerning drydock movements that require the enforcement of the safety zone. If agreement is not reached, the Coast Guard, as a Federal trustee, will conduct consultation with the Muckleshoot tribe to ensure Vigor movements will avoid Treaty impacts.

If you believe this proposed rule has additional implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed

rule involves the establishment of a safety zone to ensure the safety of the maritime public. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified

when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1340 to read as follows:

#### § 165.1340 Safety Zone; Vigor Industrial Drydock Movement, West Duwamish Waterway; Seattle, WA.

(a) *Location.* The following area is a safety zone: All waters of the West Duwamish Waterway in Seattle, WA encompassed within the area created by connecting the following points: 47°35'04" N., 122°21'30" W. thence westerly to 47°35'04" N., 122°21'50" W. thence northerly to 47°35'19" N., 122°21'50" W. thence easterly to 47°35'19" N., 122°21'30" W. thence southerly to 47°35'04" N., 122°21'30" W.

(b) *Regulations.* (1) In accordance with the general regulations in subpart C of this part, when a notice of enforcement has been issued, no person may enter or remain in the safety zone created by this section unless authorized by the Captain of the Port or a Designated Representative. See subpart C of this part for additional safety zone information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting the Joint Harbor Operation Center at 206–217–6001 or the Vessel Traffic Service Puget Sound on VHF channel 14.

(2) In order to reach an agreeable timeframe that avoids impacts to treaty fishing activities, the Coast Guard will consult with the Muckleshoot tribe and Vigor Industrial once it receives notification from Vigor Industrial concerning drydock movements that require the enforcement of the safety zone. If agreement is not reached, the Coast Guard, as a Federal trustee, will conduct consultation with the Muckleshoot tribe to ensure Vigor movements will avoid Treaty impacts.

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

Dated: November 8, 2016.

**M.W. Raymond,**

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

[FR Doc. 2016-27494 Filed 11-15-16; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 372

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

RIN 2070-AK15

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

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

**ACTION:** Proposed rule.

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

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

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

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

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

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

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

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

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

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

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this notice apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use NPEs. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Facilities included in the following NAICS manufacturing codes (corresponding to Standard Industrial Classification (SIC) codes 20 through 39): 311 \*, 312 \*, 313 \*, 314 \*, 315 \*, 316, 321, 322, 323 \*, 324, 325 \*, 326 \*, 327, 331, 332, 333, 334 \*, 335 \*, 336, 337 \*, 339 \*, 111998 \*, 211112 \*, 212324 \*, 212325 \*, 212393 \*, 212399 \*, 488390 \*, 511110, 511120, 511130, 511140 \*,

511191, 511199, 512220, 512230 \*, 519130 \*, 541712 \*, or 811490 \*.

\* Exceptions and/or limitations exist for these NAICS codes.

- Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (corresponds to SIC code 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (corresponds to SIC code 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC codes 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC code 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC code 5171, Petroleum Bulk Terminals and Plants); or 562112 (Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC code 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*) (corresponds to SIC code 4953, Refuse Systems).

- Federal facilities.

To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

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

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