materials specifications, test methods, sampling procedures, and business practices) 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.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects

40 CFR Part 302

Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal.

40 CFR Part 355

Air pollution control, Chemical accident prevention, Chemical emergency preparedness, Chemicals, Community emergency response plan, Community right-to-know, Contingency planning, Disaster assistance, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous substances, Intergovernmental relations, Natural resources, Penalties, Reportable quantity, Reporting and recordkeeping requirements, Superfund Amendments and Reauthorization Act, Threshold planning quantity.

Dated: September 27, 2005.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, it is proposed to amend title 40, chapter I of the Code of Federal Regulations 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, 9604; 33 U.S.C. 1321 and 1361.

2. Section 302.6 is amended by adding paragraph (e) to read as follows:

§ 302.6 Notification requirements.

* * * * *

(e) The following releases are exempt from the notification requirements of this section:

(1) Releases in amounts less than 1,000 pounds per 24 hours of nitrogen oxide to the air which are the result of combustion and not the result of an accident or malfunction of equipment.

(2) Releases in amounts less than 1,000 pounds per 24 hours of nitrogen dioxide to the air which are the result of combustion and not the result of an accident or malfunction of equipment.

PART 355—EMERGENCY PLANNING AND NOTIFICATION

1. The authority citation for part 355 continues to read as follows:

Authority: 42 U.S.C. 11002, 11004, and 11048.

2. Section 355.40 is amended by adding paragraph (a)(2)(vii) to read as follows:

§ 355.40 Emergency release notification.

(a) * * *

(2) * * *

(vii) Any release in amounts less than 1,000 pounds per 24 hours of nitrogen oxide or nitrogen dioxide to the air that is the result of combustion and not the result of an accident or malfunction of equipment.

* * * * *

[FR Doc. 05–19872 Filed 10–3–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[TRI–2005–0073; FRL–7532–8]

RIN 2025–AA14

Toxics Release Inventory Burden Reduction Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), the Environmental Protection Agency (EPA) proposes to revise certain requirements for the Toxics Release Inventory (TRI). The purpose of these revisions is to reduce reporting burden associated with the TRI reporting requirements while continuing to provide valuable information to the public that fulfills the purposes of the TRI program. ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. The Agency will continue to provide valuable information to the public pursuant to section 313 of EPCRA and section 6607 of the Pollution Prevention Act (PPA) regarding toxic chemical releases and other waste management activities.

If adopted, today's proposed action would increase eligibility for the Form A Certification Statement for non-Persistent Bioaccumulative and Toxic (PBT) chemicals by raising the eligibility threshold to 5000 pounds for the ''annual reportable amount'' of a toxic chemical. It would also, for the first time, allow limited use of Form A for PBT chemicals where total releases are zero and the PBT annual reportable amount does not exceed 500 pounds. Dioxin and dioxin-like compounds are excluded from consideration for expanded Form A eligibility. Today's proposal applies to the reporting of individual chemicals and is not intended to apply automatically to all reports that a facility may be required to file.

For non-PBTs under the current regulations, the annual reportable amount is the combined total quantity released at the facility, treated at the facility, recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemical in production—related waste, i.e., the sum of Sections 8.1 through and including Section 8.7 of the Form R. Today's proposal would define a PBT annual reportable amount that would also include amounts managed and reported under Section 8.8 of the Form R. Greater detail on how reporters can qualify for increased Form A eligibility is provided later in today's proposal under Section III.

DATES: Comments, identified by the Docket ID No. TRI–2005–0073, must be received on or before December 5, 2005.

ADDRESSES: Submit your comments, identified by Docket ID No. TRI–2005–0073, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: *oei.docket@epa.gov*
- Fax: 202–566–0741.
- Mail: Office of Environmental Information (OEI) Docket,

Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. TRI–2005–0073.

• Hand Delivery: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004, telephone: 202–566–1744, Attention Docket ID No. TRI–2005–0073. Such deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. TRI–2005–0073. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at: *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, *http://www.regulations.gov*, or e-mail. The EPA EDOCKET and the Federal regulations.gov Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: EPA has established an official public docket for this action under Docket ID No. TRI–2005–0073. The public docket contains information considered by EPA in developing this proposed rule, 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 following **FOR FURTHER INFORMATION CONTACT** section. All documents in the docket are listed in the EDOCKET index at: *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information for which 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 in EDOCKET, or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 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 202–566–1752.

FOR FURTHER INFORMATION CONTACT: For more specific information or technical questions relating to this rule, contact Kevin Donovan, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–0676; fax number: 202–566–0741; e-mail: *donovan.kevin-e@epa.gov.* The press point of contact for this rule is Suzanne Ackerman, Office of Public Affairs, 202–564–4355. For general inquiries relating to the Toxics Release Inventory or more information on EPCRA section 313, contact the TRI Information Center Hotline, Environmental Protection Agency, Mail Code 5101, 1200 Pennsylvania Ave., NW., Washington, DC 20460; toll free: 1–800–424–9346, in Virginia and Alaska: 703–412–9810, or toll free TDD: 1–800–553–7672.

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I. Background and General Information

A. Acronyms and Abbreviations Used in This Document

ARA—Annual Reportable Amount
CAA—Clean Air Act
CBI—Confidential Business Information
CDX—Central Data Exchange
CFR—Code of Federal Regulations
E.O.—Executive Order
EPA—U.S. Environmental Protection Agency
EPCRA—Emergency Planning and Community Right-to-Know Act
ICR—Information Collection Request
MACT—Maximum Achievable Control Technology
NA—Not Applicable
NTTAA—National Technology Transfer and Advancement Act of 1995
OEI—Office of Environmental Information (EPA)
OMB—Office of Management and Budget (Executive Office of the President)
PAC—Polycyclic Aromatic Compound
PBT—Persistent, Bioaccumulative, and Toxic
PDR—Public Data Release
PPA—Pollution Prevention Act
PPM—Parts per million
PRA—PBT Reportable Amount
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
RY—Reporting Year
SBREFA—Small Business Regulatory Enforcement Fairness Act of 1996
SIC—Standard Industrial Classification
TEQ—Toxic Equivalency Quotient
TPRW—Total Production Related Waste (total disposal and other releases plus all other production related waste management activities)
TRI—Toxics Release Inventory
TRI–ME—Toxics Release Inventory—Made Easy
UMRA—Unfunded Mandates Reform Act
U.S.C.—United States Code

B. Does This Document Apply to Me?

This document applies to facilities that submit annual reports under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and the Pollution Prevention Act (PPA). It specifically applies to those that submit the TRI Form R or Form A Certification Statement. (See *http://www.epa.gov/tri/report/index.htm#forms* for detailed information about EPA's TRI reporting forms.) 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.

This document also is relevant to those who utilize EPA's TRI information, including State agencies, local governments, communities, environmental groups and other non-governmental organizations, as well as members of the general public.

C. What Should I Consider as I Prepare My Comments for EPA?

1. Tips for Preparing Your Comments. When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest options and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest options.

g. Explain your views as clearly as possible.

h. Make sure to submit your comments by the comment period deadline identified.

2. Submitting Confidential Business Information (CBI). Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address only, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OEI Document Control Officer, Mail Code: 2822T, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). EPA will disclose information claimed as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Are the Toxics Release Inventory Reporting Requirements and Who Do They Affect?

Pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), certain facilities that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State officials toxic chemical release forms containing information specified by EPA. 42 U.S.C.

11023. These reports must be filed by July 1 of each year for the previous calendar year. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals. 42 U.S.C. 13106. These reports are compiled and stored in EPA's database known as the Toxics Release Inventory (TRI).

Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

- The facility has 10 or more full-time employee equivalents (*i.e.*, a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and
- The facility is included in Standard Industrial Classification (SIC) Codes 10 (except 1011, 1081, and 1094), 12 (except 1241), 20–39, 4911 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4931 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4939 (limited to facilities that combust coal and/or oil for the purpose of generating electricity for distribution in commerce), 4953 (limited to facilities regulated under RCRA Subtitle C, 42 U.S.C. 6921 *et seq.*), 5169, 5171, and 7389 (limited to facilities primarily engaged in solvents recovery services on a contract or fee basis), or under Executive Order 13148, Federal facilities regardless of their SIC code; and
- The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established thresholds for the specific chemical in the course of a calendar year.

Facilities that meet the criteria must file a Form R report or, in some cases, may submit a Form A Certification Statement, for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), the report for any calendar year must be submitted on or before July 1 of the following year. For example, reporting year 2004 data should have been postmarked on or before July 1, 2005.

The list of toxic chemicals subject to TRI reporting can be found at 40 CFR 372.65. This list is also published every year as Table II in the current version of the Toxics Release Inventory Reporting Forms and Instructions. The current TRI chemical list contains 581 individually-listed chemicals and 30 chemical categories.

E. Why Is EPA Proposing To Reduce Burden Associated With TRI Reporting Requirements?

As noted above in the summary, ''burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. 44 U.S.C. 3502(2). That 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. EPA is proposing this action because the Agency believes it will reduce burden and save resources for regulated entities, while continuing to provide valuable information to the public that fulfills the purposes of the TRI program.

EPA has made considerable progress in reducing burden associated with its various information collections through streamlining, consolidating, and harmonizing regulations, guidance, and compliance assistance, and implementing technology-based processes (*i.e.*, electronic reporting using the Toxics Release Inventory—Made Easy (TRI–ME) software and EPA's Central Data Exchange (CDX), making use of data submitted to the Agency through other EPA programs, and using geospatial information to pre-populate data fields). These measures have reduced the time, cost, and complexity of existing environmental reporting requirements, while enhancing reporting effectiveness and efficiency and continuing to provide useful information to the public.

In July 2005, the Agency promulgated the TRI Reporting Forms Modification Rule (70 FR 39931, July 12, 2005), which streamlined the current forms by eliminating some fields and simplifying completion of others. The purpose of today's action is to propose additional burden reduction that will continue to provide valuable information on toxic chemical release and other waste management information that is necessary to fulfill the purposes of the TRI program.

Today's proposal provides burden reduction for facilities that report small quantities of PBT and non-PBT chemicals, though with different eligibility thresholds. Those familiar with the Stakeholder Dialogue that EPA conducted between November 2002 and February 2004 will note that the Agency is pursuing Option 3, Expanding Eligibility for the Form A Certification Statement, but modified to include a limited option for PBT chemicals. (More detail on the ''Dialogue'' is provided below in Section I.F.3). While the Agency has considered a much broader range of alternatives, many were determined to provide only limited opportunity for burden reduction, or to be inconsistent with the purposes of the TRI program. In a separate notice in today's **Federal Register**, EPA is also announcing its notice to Congress of the intention to initiate a rule-making that would modify the reporting frequency for some or all TRI reports.

The Agency believes that today's proposal will provide meaningful burden reduction while still maintaining the value of the TRI information and will hereafter refer to this action as the ''Phase 2'' burden reduction rulemaking. In developing this approach, EPA considered input provided by stakeholders, and identified a number of criteria to guide the development of the approach that is presented here today. These criteria include making sure that this proposal maintains the integrity of the TRI database by providing meaningful data to users that fulfills the purposes of the TRI program; providing an overall burden savings in hours needed for reporting, adding to the time saved by streamlining the forms and instructions in the Forms Modification Rule; providing benefits to both non-PBT and PBT reporting facilities as appropriate; ensuring that the approach is relatively easy to implement; and creating incentives for pollution prevention.

F. What Actions Has EPA Taken in the Past To Streamline TRI Reporting?

1. TRI–ME and Reporting Assistance

Throughout the history of the TRI Program, the Agency has implemented measures to reduce the TRI reporting burden on the regulated community while still ensuring the provision of valuable information to the public that fulfills the purposes of the TRI program. Through a range of compliance assistance activities, such as the Toxic Chemical Release Inventory Reporting Forms and Instructions (which is published and mailed every year), industry training workshops, chemical-specific and industry-specific guidance documents, and the TRI Information Center (a call hotline), the Agency has shown a commitment to enhancing the

quality and consistency of reporting and assisting those facilities that must comply with EPCRA section 313.

EPA has also done extensive work to make reporting easier for the TRI reporting community through the development and use of technology such as EPA's Toxics Release Inventory—Made Easy software, otherwise known as TRI–ME (*http://www.epa.gov/tri/report/trime/*). TRI–ME is an interactive, user-friendly software tool that guides facilities through the TRI reporting process. By leading prospective reporting facilities through a series of logically-ordered questions, TRI–ME facilitates the analysis needed to determine if a facility must complete a Form A or Form R report for a particular chemical. For those facilities required to report, the software provides guidance for each data element on Forms A and R. TRI–ME also has a one-stop guidance feature, the TRI Assistance Library, that allows keyword searches on the statutes, regulations, and many EPCRA section 313 guidance documents. It also offers a ''load feature'' that enables the user to upload almost all of the facility's prior year data into the current year's report. Finally, TRI–ME checks the data for common errors and then prepares the forms to be sent electronically over the Internet via EPA's Central Data Exchange (CDX). Reporting forms generated by TRI–ME may also be submitted offline via magnetic media or on paper. In the spring of 2003, EPA distributed approximately 25,000 copies of TRI–ME in preparation for the 2002 reporting year deadline of July 1, 2003. Approximately 90% of the roughly 84,000 Form R's filed in 2003 were prepared using the TRI–ME software.

2. Form A Certification Statement

In 1994, partially in response to petitions received from the U.S. Small Business Administration Office of Advocacy and the American Feed Industry Association, an EPA rulemaking established the Form A Certification Statement as an alternative to Form R. This burden-reducing measure was based on an alternate threshold for quantities manufactured, processed, or otherwise used by those facilities with relatively low annual reportable amounts of TRI chemicals. A facility may use an alternate, higher reporting threshold for a toxic chemical for which it has an annual reportable amount not exceeding 500 pounds. The annual reportable amount (ARA) is the total of the quantity released at the facility, the quantity treated at the facility, the quantity recovered at the facility as a result of recycling operations, the quantity combusted for the purpose of energy recovery at the facility, and the quantity transferred off-site for recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemicals in production-related waste (*i.e.*, the sum of sections 8.1 through and including section 8.7 on the Form R). The reporting threshold for chemicals with an ARA less than or equal to 500 pounds is one million pounds manufactured, processed, or otherwise used. Facilities that meet the ARA eligibility requirement and fall below the one million pound reporting threshold for a particular toxic chemical may so certify by using Form A, and thus avoid having to submit a detailed Form R.

When EPA lowered reporting thresholds in the subsequent PBT rule, EPA determined that allowing the Form A certification for PBT chemicals at that time would be inconsistent with the intent of expanded PBT chemical information (64 FR 58732, October 29, 1999) and so disallowed the use of Form A for PBT chemicals. EPA cited concerns over releases and other waste management of these chemicals at low levels and said that, based on the information available to the Agency at that time, EPA believed that the level of information from Form A was insufficient to do meaningful analyses on PBT chemicals (Id. at 58733). EPA also stated ''the Agency believes that it is appropriate to collect and analyze several years worth of data at the lowered thresholds before EPA considers developing a new alternate threshold and reportable quantity appropriate for PBT chemicals'' (Id. at 58732).

3. Stakeholder Dialogue

In an effort to further explore burden reduction opportunities, EPA conducted a TRI Stakeholder Dialogue between November 2002 and February 2004. A summary is available at *http://www.epa.gov/tri/programs/stakeholders/outreach.htm*. The dialogue process focused on identifying improvements to the TRI reporting process and exploring a number of burden reduction options associated with TRI reporting. In total, EPA received approximately 770 submissions as part of this Stakeholder Dialogue. Of those, approximately 730 were substantive public comments, and the remaining documents were either duplicates or correspondence transmitting public comments to the online docket system. The public comments expressed a range of views, with some supporting burden reduction and others opposing it. Approximately 63% of the comments came from private citizens; another 16% came from environmental groups, public interest groups, and public health groups; approximately 15% came from industry and trade group representatives; and about 6% came from government agencies, including nine States, three Federal agencies, and one municipality. You may view and obtain copies of all documents submitted to EPA by accessing TRI docket TRI–2003–0001 online at *http://www.epa.gov/edocket* or by visiting the EPA Docket Public Reading Room in Washington, DC.

As a result of the Stakeholder Dialogue and subsequent comments from stakeholders, the Agency identified several burden reducing options that could be implemented while continuing to provide valuable information to data users. These options fall into three broad categories: (1) Relatively minor changes or modifications to the reporting forms and the TRI–ME software; (2) expanding Form A eligibility; and (3) reducing the frequency of reporting for some or all reports.

EPA decided to address the three categories of changes through separate rulemakings, the first of which was promulgated in July 2005. The promulgated changes eliminated some redundant or seldom-used data elements from Forms A and R, and modified others that could be shortened, simplified, or otherwise improved to reduce the time and costs required to complete and submit annual TRI reports. They also improved data consistency and reliability by replacing some elements on the forms with information extracted from the EPA's Facility Registry System (FRS) which includes QA/QC'd data on most facilities subject to environmental reporting requirements across EPA programs.

Today's rulemaking, the second of the three sets of changes, will expand eligibility for Form A reporting for non-PBT chemicals, and allow limited Form A reporting in some cases for PBT chemicals with zero releases. In a separate notice in today's FR, EPA is announcing notice to Congress of its intention to initiate a rulemaking to address the third option, modifying the reporting frequency for all or some TRI reports. EPCRA Section 313(i)(5) requires one-year advance notification to Congress before initiating such a rule making. This notification is being delivered today, concurrent with the publication of this notice.

G. Burden Reduction Estimation Methodology Used in Today's Proposal

1. Summary of Basic Methodology

The burden methodology used in today's proposal is based on currently approved estimates of the time required to complete a Form R or Form A and is summarized in the economic analysis contained in the docket for this proposal. Basically, allowing respondents to file a Form A in lieu of a Form R significantly reduces the calculation and form completion burden and also makes a small difference (2 hours) in recordkeeping and form submission costs. The beneficiaries of today's proposal will almost exclusively be subsequent year reporters (*i.e.*, current Form R respondents). The currently approved burden estimates for calculations and form completion are shown below in Table 1.

TABLE 1.—ESTIMATED HOURS OF BURDEN FOR A TRI FORM

Type of form	First year reporter	Subsequent year reporter
PBT Response on Form R	69	47.1
Non-PBT Response on Form R	37	25.2
Non-PBT Form A Response	25.1	17.6
PBT Form A Response*	45.6	31.6
Form R Recordkeeping and Submission	5	5
Form A Recordkeeping and Submission	3	3

* Note: PBT Form A's do not presently exist so burden estimated using approved non-PBT Form A approach.

EPA is also using today's notice to seek comment on a proposed methodology for improving the estimation of calculation and form completion burden. The approach taken by the Agency in developing the new burden estimation methodology was to assemble a team of persons with knowledge or experience related to the preparation of TRI reports who then applied their best professional judgment to break down the reporting requirements into separate item-specific tasks, and then estimate the average time required to complete each task. This report was internally vetted through Agency TRI program personnel in the Regions and at Headquarters. The resulting estimates are assembled and described in a July 16, 2004, memorandum entitled TRI Reporting Burden Estimates from Hilary Eustace, David Cooper, and Susan Day of Abt Associates to Paul Borst, EPA which is contained in the docket for this rulemaking.

The resulting burden estimates derived from that engineering analyses for PBT and non-PBT chemicals are substantially lower than the current burden estimates in the OMB-approved Information Collection Request (ICR) supporting statement for Form R. For example, under the current ICR, the subsequent year Form R burden estimates for PBT and non-PBT chemicals for form completion and calculation are 47.1 and 25.2 hours respectively. Form A calculation burden is estimated to be 64% of the Form R burden. To this amount, 1.4 hours of form completion time is added, resulting in Form A calculation and completion estimates of 31.6 hours for PBT chemicals and 17.6 hours for non-PBT chemicals.

Under the Agency's new engineering estimates, Form R estimates for PBT and non-PBT chemicals are reduced to 6.7 and 7.6 hours for PBT and non-PBT chemicals respectively. Under the new methodology, the average burden for Form A for both PBT and non-PBT chemicals is 1.4 hours. If these new numbers had been used in the estimation of the burden reduction from today's proposal, the estimated burden reduction would have been about three-fourths of what is estimated using the currently approved numbers.

The Agency conducted an external peer review of this new analysis to assess the reasonableness of the new methodology and specific burden estimates. The peer review panel was generally favorable to both the general methodology used in the engineering analysis (summing across Form R elements to derive total burden) and the specific form completion steps described. However, the panel felt that the time allocated for many of the tasks should be increased. The panel disagreed with the assumption in the Agency's engineering analysis that a typical TRI reporting facility was reasonably modern and well-organized. A majority of the panel thought that EPA overestimated the experience and knowledge that a typical TRI reporting facility would have in completing its Form R and thus underestimated the time it would take to complete the Form.

The Agency has placed both its engineering estimate and the peer review summary in the docket for today's proposed rule. The Agency solicits comment on the reasonableness and accuracy of the methodology, form completion steps and specific burden estimates as well as on the conclusions of the external peer review.

II. What Is EPA's Statutory Authority for Taking This Action?

This proposed rule is being issued under sections 313(f)(2) and 328 of EPCRA, 42 U.S.C. 11023(f)(2) and 11048. In general, section 313 of EPCRA and section 6607 of the Pollution Prevention Act (PPA) require owners and operators of facilities in specified SIC codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility-specific information about such chemicals, including the annual releases and other waste management quantities. This information is submitted on EPA Form 9350–1 (Form R) or EPA Form 9350–2 (Form A) and compiled in an annual Toxics Release Inventory (TRI). Each covered facility must file a separate Form R for each listed chemical manufactured, processed, or otherwise used in excess of applicable reporting thresholds which were initially established in section 313(f)(1). EPA has also established an alternate threshold for non-PBT chemicals with low annual reportable amounts. Facilities making use of the alternate reporting threshold must file a Form A certification statement listing their toxic chemicals that qualify for the alternate threshold. EPA has authority to revise the threshold amounts pursuant to section 313(f)(2); however, such revised threshold amounts must obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to section 313. In addition, Congress granted EPA broad rulemaking authority to allow the Agency to fully implement the statute.

EPCRA section 328 authorizes the ''Administrator [to] prescribe such regulations as may be necessary to carry out this chapter.'' 42 U.S.C.11048.

Today's proposed approach would raise the reporting thresholds for a specific class of chemical reports. Congress set statutory default reporting thresholds of 25,000 pounds for manufacturing, 25,000 pounds for processing, and 10,000 pounds for the otherwise use of a listed toxic chemical in EPCRA section 313(f)(1). EPCRA section 313(f)(2), however, provides EPA with authority to establish different reporting thresholds. EPA may, at the Administrator's discretion, base these different thresholds on classes of chemicals or categories of facilities. EPCRA specifies that the revised threshold adopted by EPA ''shall obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section.'' 42 U.S.C. 11023(f)(2).

EPA has raised the reporting thresholds for a class of chemical reports once previously. In 1994, EPA finalized a rule that created the Form A Certification Statement (59 FR 61488). That rule raised the reporting thresholds for manufacturing, processing, and the otherwise use of listed toxic chemicals to 1 million pounds for a category of facilities whose total annual reportable amount for a particular chemical was 500 pounds or less. In that rulemaking, EPA discussed the value of information that is collected on the Form A as follows: ''EPA believes that the proposed annual certification will provide information relating to the location of facilities manufacturing, processing, or otherwise using these chemicals, that the chemicals are being manufactured, processed, or otherwise used at current reporting thresholds, and that chemical releases and transfers for the purpose of treatment and/or disposal are [500 pounds or less] per year (*i.e.*, within a range of zero to [500] pounds per year).'' (59 FR 38527) EPA further indicated that the information collected on the Form A helped to ensure that the revised thresholds continued to obtain reporting on a substantial majority of releases.

The burden reduction approach in today's proposal is modeled after the approach taken in the 1994 Form A rulemaking. Expanding Form A eligibility for Non-PBT chemicals and allowing limited eligibility for PBT chemicals raises the reporting threshold for eligible chemicals at a specifically defined category of facilities. As explained below, eligibility is determined on a chemical-by-chemical basis, rather than a facility-wide basis. Under the expanded Form A eligibility, facilities qualifying for the raised threshold for a given chemical would continue to file an annual certification statement in place of a Form R. Through its narrow definition of the category of facilities eligible for the raised threshold for certain chemicals and through the information collected on the certification statements, EPA is ensuring that reporting under the raised thresholds will continue to ''obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section.''

III. What Reporting Requirement Changes Are Being Proposed?

Today's proposal applies to all TRI chemicals except dioxin and dioxin-like compounds, which are excluded from consideration. Allowing Form A for PBT chemicals affects those chemicals identified by EPA as ''chemicals of special concern'' under 40 CFR 372.28 (except for dioxin and dioxin-like compounds, discussed below). Currently ''chemicals of special concern'' include only certain chemicals that have been found to be ''persistent, bioaccumulative, and toxic (PBT).'' Therefore, for the reader's convenience, we will refer to the chemicals in 40 CFR 372.28 as ''PBT chemicals'' in today's proposal.

For PBT chemicals, today's proposal would allow facilities reporting on PBT chemicals with no disposal or other releases of a chemical to use the Form A Certification Statement provided they do not exceed the 1 million pound reporting threshold and have 500 pounds or less of total other waste management quantities. The other waste management quantities include recycling, energy recovery and treatment for destruction. For non-PBT chemicals, facilities would now be able to use Form A if their annual reportable amount (ARA), which is the sum of Form R Sections 8.1 through Section 8.7 and is also referred to as Total Production Related Waste (TPRW), is 5000 pounds or less. This is an increase from the current ARA threshold of 500 pounds.

Increased eligibility for the Form A Certification Statement is based on the reporting of individual chemicals, and does not apply to facility reporting as a whole. For example, if a facility has determined it must report on four chemicals in a given reporting year, it must consider each of its chemicals individually to determine its eligibility to use Form A. In doing so, facilities must ensure that they are using the correct eligibility requirements for each toxic chemical, depending upon whether or not the chemical is a PBT. As noted above, PBT chemicals, except dioxin and dioxin-like compounds may now be eligible to use the Form A Certification Statement. Dioxin and dioxin-like compounds have been excluded from this expanded eligibility. Because of the high toxicity of some dioxin and dioxin-like compounds and the wide variation in toxicity between forms of dioxin, EPA recently proposed to add toxic equivalency (TEQ) reporting for the dioxin and dioxin-like compounds category (70 FR 10919, March 7, 2005). EPA proposed this revision in response to requests from TRI reporters that EPA create a mechanism for facilities to report TEQ data to provide important context for the dioxin and dioxin-like compounds release data. In addition, EPA believes that the public will benefit from the additional context and comparability of data provided by TEQ reporting. The Agency has decided to wait until the Dioxin TEQ rulemaking is finalized and until the Agency has appropriate data before considering whether this class of PBT chemicals should be considered for Form A eligibility.

A. Reference Guide for Burden Reduction Options

In this section, Figure 1 and Table 2 are intended as reference guides to help readers understand the proposed eligibility requirements for Form A use. By increasing eligibility for Form A, the Agency is providing an alternative to Form R for facilities required to report to TRI. A basic understanding of the information a Form R respondent would be required to submit in Section 8 of Form R is necessary to understand the proposed new requirements for Form A eligibility. Figure 1 presents the Section 8 portion of Form R to facilitate understanding of the proposal. Table 2 summarizes the proposed new eligibility requirements. Readers are encouraged to refer to the descriptions here and in Table 2 of this section for summary information, but should read through the subsequent text discussion for more detail about the proposed new eligibility requirements.

One term that is used frequently in this proposal and may need some clarification is ''releases.'' EPCRA defines the term ''releases'' to include activities such as air and water discharges, and land disposal. According to 42 U.S.C. 11049(8), the ''term 'release' means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment

(including the abandonment or discarding of barrels, containers, and other closed receptacles) of any toxic chemical.'' Beginning with the Public Data Release (PDR) for the 2003 reporting year, in an effort to provide additional context to the TRI data and to remind readers that the definition of ''releases'' is broad, the Agency refers to total ''releases'' as total ''disposal or other releases.'' However, within the legal context of the TRI program, ''disposal'' is a subset of release, not a separate waste management activity from ''release.'' EPA carries the term ''disposal or other releases'' over to this rulemaking, but also uses the term ''releases'' by itself for brevity and because this is the term used in the statute. In both cases, the Agency is referring to all types of releases, including disposals.

In addition, another point of possible confusion is the term ''chemicals of special concern'' which was used in the October 1999 PBT rule to identify chemicals subject to a lower reporting threshold and not eligible for Form A. As noted above, currently all of the chemicals that are of special concern are PBTs. Therefore, for simplicity, the term ''PBT chemical'' is used in lieu of ''chemicals of special concern.'' For purposes of this proposal, the Agency will also refer to non-PBT chemicals, when referring to the larger group of TRI chemicals that are not PBTs (*i.e.*, not chemicals of special concern). Should the Agency identify additional chemicals of special concern in the future, at that time the Agency will consider whether it is appropriate to extend these or other burden reduction options to those chemicals.

FIGURE 1.—SECTION 8 OF THE FORM R

Section 8.—Source Reduction and Recycling Activities

		Column A prior year (pounds/year*)	Column B current reporting year (pounds/year*)	Column C following year (pounds/year*)	Column D second following year (pounds/year*)
8.1					
8.1a	Total on-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills.				
8.1b	Total other on-site disposal or other releases				
8.1c	Total off-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills.				
8.1d	Total other off-site disposal or other releases				
8.2	Quantity used for energy recovery onsite				
8.3	Quantity used for energy recovery offsite				
8.4	Quantity recycled onsite				
8.5	Quantity recycled offsite				
8.6	Quantity treated onsite				
8.7	Quantity treated offsite				
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year)*.				
8.9	Production ratio or activity index				
8.10	Did your facility engage in any source reduction activities for this chemical during the reporting year? If not, enter ''NA'' in Section 8.10.1 and answer Section 8.11.				
	Source Reduction Activities [enter code(s)]	Methods to Identify Activity (enter codes).			
8.10.1		a.	b.	c.	
8.10.2		a.	b.	c.	
8.10.3		a.	b.	c.	
8.10.4		a.	b.	c.	
8.11	Is additional information on source reduction, recycling, or pollution control activities included with this report? (Check one box)			Yes ☐ No ☐	

* For Dioxin or Dioxin-like compunds, report in grams/year.

TABLE 2.—BURDEN REDUCTION TERMS

Expanding Form A eligibility	Applicable Form R sections
PBT Chemicals *	Sections 8.1a through 8.1d must equal zero and Section 8.8 cannot include positive quantities of disposal or other releases. Section 8.2 + Section 8.3 + Section 8.4 + Section 8.5 + Section 8.6 + Section 8.7+ Section 8.8 must = 500 pounds or less.
Non-PBT Chemicals *	Sections 8.1 + Section 8.2 + Section 8.3 + Section 8.4 + Section 8.5 + Section 8.6 + Section 8.7 must = 5000 pounds or less. *To be eligible, must also meet 1 million pound alternate threshold for manufacture processing or otherwise use.

For convenience, the entire Form R and Form A are reprinted below as Figures 2 and 3 respectively.

BILLING CODE 6560–50–P

Form Approved OMB Number: 2070-0093
Approval Expires: 01/31/2006

(IMPORTANT: Type or print; read instructions before completing form)

Page 1 of 5

EPA
United States Environmental Protection Agency

FORM R

Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, also Known as Title III of the Superfund Amendments and Reauthorization Act

TRI Facility ID Number

Toxic Chemical, Category or Generic Name

WHERE TO SEND COMPLETED FORMS: 1. TRI Data Processing Center, P. O. Box 1513, Lanham, MD 20703-1513, ATTN: TOXIC CHEMICAL RELEASE INVENTORY 2. APPROPRIATE STATE OFFICE (See instructions in Appendix F)

Enter "X" here if this is a revision

For EPA use only

IMPORTANT: See instructions to determine when "Not Applicable (NA)" boxes should be checked.

PART 1. FACILITY IDENTIFICATION INFORMATION

SECTION 1. REPORTING YEAR _____

SECTION 2. TRADE SECRET INFORMATION

2.1 Are you claiming the toxic chemical identified on page 2 trade secret?
☐ Yes (Answer question 2.2; Attach substantiation forms) ☐ No (Do not answer 2.2; Go to Section 3)

2.2 Is this copy ☐ Sanitized ☐ Unsanitized
(Answer only if "YES" in 2.1)

SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)

I hereby certify that I have reviewed the attached documents and that, to the best of my knowledge and belief, the submitted information is true and complete and that the amounts and values in this report are accurate based on reasonable estimates using data available to the preparers of this report.

Name and official title of owner/operator or senior management official:	Signature:	Date Signed:

SECTION 4. FACILITY IDENTIFICATION

4.1 TRI Facility ID Number

Facility or Establishment Name

Facility or Establishment Name or Mailing Address (If different from street address)

Street

Mailing Address

City/County/State/Zip Code

City/State/Zip Code

Country (Non-US)

4.2 This report contains information for: (Important: Check a or b; check c or d if applicable) a. ☐ An entire facility b. ☐ Part of a facility c. ☐ A Federal facility d. ☐ GOCO

4.3 Technical Contact Name

Telephone Number (include area code)

Email Address

4.4 Public Contact Name

Telephone Number (include area code)

4.5 SIC Code (s) (4 digits)	Primary a.	b.	c.	d.	e.	f.

4.6 Latitude	Degrees	Minutes	Seconds	Longitude	Degrees	Minutes	Seconds

4.7 Dun & Bradstreet Number (s) (9 digits)	4.8 EPA Identification Number (RCRA ID No.) (12 characters)	4.9 Facility NPDES Permit Number(s) (9 characters)	4.10 Underground Injection Well Code (UIC) I.D. Number(s) (12 digits)
a.	a.	a.	a.
b.	b.	b.	b.

SECTION 5. PARENT COMPANY INFORMATION

5.1 Name of Parent Company NA ☐

5.2 Parent Company's Dun & Bradstreet Number NA ☐

Form Approved OMB Number: 2070-0093
Approval Expires: 01/31/2006

(IMPORTANT: Type or print; read instructions before completing form)

FORM R

PART II. TOXIC CHEMICAL RELEASE INVENTORY REPORTING FORM

TRI Facility ID Number

Toxic Chemical, Category or Generic Name

SECTION 1. TOXIC CHEMICAL IDENTITY (Important: DO NOT complete this section if you completed Section 2 below.)

1.1 CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)

1.2 Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)

1.3 Generic Chemical Name (Important: Complete only if Part 1, Section 2.1 is checked "yes". Generic Name must be structurally descriptive.)

1.4 **Distribution of Each Member of the Dioxin and Dioxin-like Compounds Category.**
(If there are any numbers in boxes 1-17, then every field must be filled in with either 0 or some number between 0.01 and 100. Distribution should be reported in percentages and the total should equal 100%. If you do not have speciation data available, indicate NA.)

NA ☐	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

SECTION 2. MIXTURE COMPONENT IDENTITY (Important: DO NOT complete this section if you completed Section 1 above.)

2.1 Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces and punctuation.)

SECTION 3. ACTIVITIES AND USES OF THE TOXIC CHEMICAL AT THE FACILITY
(Important: Check all that apply.)

3.1 Manufacture the toxic chemical:	3.2 Process the toxic chemical:	3.3 Otherwise use the toxic chemical:
a. ☐ Produce b. ☐ Import If produce or import c. ☐ For on-site use/processing d. ☐ For sale/distribution e. ☐ As a byproduct f. ☐ As an impurity	a. ☐ As a reactant b. ☐ As a formulation component c. ☐ As an article component d. ☐ Repackaging e. ☐ As an impurity	a. ☐ As a chemical processing aid b. ☐ As a manufacturing aid c. ☐ Ancillary or other use

SECTION 4. MAXIMUM AMOUNT OF THE TOXIC CHEMICAL ONSITE AT ANY TIME DURING THE CALENDAR YEAR

4.1 ☐ (Enter two digit code from instruction package.)

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ONSITE

			A. Total Release (pounds/year*) (Enter a range code** or estimate)	B. Basis of Estimate (enter code)	C. % From Stormwater
5.1	Fugitive or non-point air emissions	NA ☐			
5.2	Stack or point air emissions	NA ☐			
5.3	Discharges to receiving streams or water bodies (enter one name per box)				
	Stream or Water Body Name				
5.3.1					
5.3.2					
5.3.3					

If additional pages of Part II, Section 5.3 are attached, indicate the total number of pages in this box ☐ and indicate the Part II, Section 5.3 page number in this box. ☐ (example: 1,2,3, etc.)

EPA Form 9350-1 (Rev. 02/2004) - Previous editions are obsolete.

*For Dioxin or Dioxin-like compounds, report in grams/year.
** Range Codes: A= 1-10 pounds; B= 11-499 pounds; C= 500-999 pounds.

(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0093
Approval Expires: 01/31/2006

FORM R

PART II. CHEMICAL - SPECIFIC INFORMATION (CONTINUED)

TRI Facility ID Number
Toxic Chemical, Category or Generic Name

SECTION 5. QUANTITY OF THE TOXIC CHEMICAL ENTERING EACH ENVIRONMENTAL MEDIUM ONSITE (continued)

		NA	A. Total Release (pounds/year*) (enter range code ** or estimate)	B. Basis of Estimate (enter code)
5.4.1	Underground Injection onsite to Class I Wells	☐		
5.4.2	Underground Injection onsite to Class II-V Wells	☐		
5.5	Disposal to land onsite			
5.5.1A	RCRA Subtitle C landfills	☐		
5.5.1B	Other landfills	☐		
5.5.2	Land treatment/application farming	☐		
5.5.3A	RCRA Subtitle C surface impoundments	☐		
5.5.3B	Other surface impoundments	☐		
5.5.4	Other disposal	☐		

SECTION 6. TRANSFERS OF THE TOXIC CHEMICAL IN WASTES TO OFF-SITE LOCATIONS

6.1 DISCHARGES TO PUBLICLY OWNED TREATMENT WORKS (POTWs)

6.1.A Total Quantity Transferred to POTWs and Basis of Estimate

6.1.A.1 Total Transfers (pounds/year*) (enter range code ** or estimate)	6.1.A.2 Basis of Estimate (enter code)

6.1.B ____	POTW Name						
POTW Address							
City		State		County		Zip	
6.1.B ____	POTW Name						
POTW Address							
City		State		County		Zip	

If additional pages of Part II, Section 6.1 are attached, indicate the total number of pages in this box ☐ and indicate the Part II, Section 6.1 page number in this box ☐ (example: 1,2,3, etc.)

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS

6.2.____	Off-Site EPA Identification Number (RCRA ID No.)								
Off-Site Location Name									
Off-Site Address									
City		State		County		Zip		Country (Non-US)	

Is location under control of reporting facility or parent company? ☐ Yes ☐ No

EPA Form 9350-1 (Rev. 02/2004) - Previous editions are obsolete.

* For Dioxin or Dioxin-like compounds, report in grams/year
** Range Codes: A=1-10 pounds: B=1-499 pounds; C=500 - 999 pounds.

(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0093
Approval Expires: 01/31/2006

FORM R

PART II. CHEMICAL-SPECIFIC INFORMATION (CONTINUED)

TRI Facility ID Number

Toxic Chemical, Category or Generic Name

SECTION 6.2 TRANSFERS TO OTHER OFF-SITE LOCATIONS (CONTINUED)

A. Total Transfers (pounds/year*) (enter range code** or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)
1.	1.	1. M
2.	2.	2. M
3.	3.	3. M
4.	4.	4. M

6.2 ____ Off-Site EPA Identification Number (RCRA ID No.)

Off-Site Location Name

Off-Site Address

City	State	County	Zip	Country (Non-US)

Is location under control of reporting facility or parent company? Yes ☐ No ☐

A. Total Transfers (pounds/year*) (enter range code** or estimate)	B. Basis of Estimate (enter code)	C. Type of Waste Treatment/Disposal/ Recycling/Energy Recovery (enter code)
1.	1.	1. M
2.	2.	2. M
3.	3.	3. M
4.	4.	4. M

SECTION 7A. ON-SITE WASTE TREATMENT METHODS AND EFFICIENCY

☐ Not Applicable (NA) - Check here if no on-site waste treatment is applied to any waste stream containing the toxic chemical or chemical category.

a. General Waste Stream (enter code)	b. Waste Treatment Method(s) Sequence [enter 3-character code(s)]	c. Range of Influent Concentration	d. Waste Treatment Efficiency Estimate	e. Based on Operating Data?
7A.1a	7A.1b 1 2 3 4 5 6 7 8	7A.1c	7A.1d %	7A.1e Yes ☐ No ☐
7A.2a	7A.2b 1 2 3 4 5 6 7 8	7A.2c	7A.2d %	7A.2e Yes ☐ No ☐
7A.3a	7A.3b 1 2 3 4 5 6 7 8	7A.3c	7A.3d %	7A.3e Yes ☐ No ☐
7A.4a	7A.4b 1 2 3 4 5 6 7 8	7A.4c	7A.4d %	7A.4e Yes ☐ No ☐
7A.5a	7A.5b 1 2 3 4 5 6 7 8	7A.5c	7A.5d %	7A.5e Yes ☐ No ☐

If additional pages of Part II, Section 6.2/7A are attached, indicate the total number of pages in this box ☐ and indicate the Part II, Section 6.2/7 page number in this box: ☐ (example: 1,2,3,etc.)

*For Dioxin or Dioxin-like compounds, report in grams/year

**Range Codes: A=1 - 10 pounds; B=11 - 499 pounds C= 500-999 pounds.

(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0093
Approval Expires: 01/31/2006

FORM R

PART II. CHEMICAL-SPECIFIC INFORMATION (CONTINUED)

TRI Facility ID Number
Toxic Chemical, Category or Generic Name

SECTION 7B. ON-SITE ENERGY RECOVERY PROCESSES

☐ Not Applicable (NA) - Check here if no on-site energy recovery is applied to any waste stream containing the toxic chemical or chemical category.

Energy Recovery Methods [enter 3-character code(s)]

1 ☐ 2 ☐ 3 ☐

SECTION 7C. ON-SITE RECYCLING PROCESSES

☐ Not Applicable (NA) - Check here if no on-site recycling is applied to any waste stream containing the toxic chemical or chemical category.

Recycling Methods [enter 3-character code(s)]

1 ☐	2 ☐	3 ☐	4 ☐	5 ☐
6 ☐	7 ☐	8 ☐	9 ☐	10 ☐

SECTION 8. SOURCE REDUCTION AND RECYLING ACTIVITIES

		Column A Prior Year (pounds/year*)	Column B Current Reporting Year (pounds/year*)	Column C Following Year (pounds/year*)	Column D Second Following Year (pounds/year*)
8.1					
8.1a	Total on-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills				
8.1b	Total other on-site disposal or other releases				
8.1c	Total off-site disposal to Class I Underground Injection Wells, RCRA Subtitle C landfills, and other landfills				
8.1d	Total other off-site disposal or other releases				
8.2	Quantity used for energy recovery onsite				
8.3	Quantity used for energy recovery offsite				
8.4	Quantity recycled onsite				
8.5	Quantity recycled offsite				
8.6	Quantity treated onsite				
8.7	Quantity treated offsite				
8.8	Quantity released to the environment as a result of remedial actions, catastrophic events, or one-time events not associated with production processes (pounds/year)*				
8.9	Production ratio or activity index				
8.10	Did your facility engage in any source reduction activities for this chemical during the reporting year? If not, enter "NA" in Section 8.10.1 and answer Section 8.11.				

	Source Reduction Activities [enter code(s)]	Methods to Identify Activity (enter codes)		
8.10.1		a.	b.	c.
8.10.2		a.	b.	c.
8.10.3		a.	b.	c.
8.10.4		a.	b.	c.
8.11	Is additional information on source reduction, recycling, or pollution control activities included with this report? (Check one box)			Yes ☐ No ☐

EPA Form 9350 -1 (Rev. 02/2004) - Previous editions are obsolete.

*For Dioxin or Dioxin-like compounds, report in grams/year

(IMPORTANT: Type or print; read instructions before completing form)

Form Approved OMB Number: 2070-0143
Approval Expires: 01/31/2006

Page 1 of ___

United States Environmental Protection Agency

TOXIC CHEMICAL RELEASE INVENTORY
FORM A

WHERE TO SEND COMPLETED FORMS: 1. TRI Data Processing Center, P.O Box 1513, Lanham, MD 20703-1513, ATTN: TOXIC CHEMICAL RELEASE INVENTORY 2. APPROPRIATE STATE OFFICE (See instructions in Appendix F)

Enter "X" here if this is a revision

For EPA use only

Important: See instructions to determine when "Not Applicable (NA)" boxes should be checked.

PART I. FACILITY IDENTIFICATION INFORMATION

SECTION 1. REPORTING YEAR _____

SECTION 2. TRADE SECRET INFORMATION

2.1	Are you claiming the toxic chemical identified on page 2 trade secret? ☐ Yes (Answer question 2.2; Attach substantiation forms) ☐ No (Do not answer 2.2; Go to Section 3)	2.2	Is this copy ☐ Sanitized ☐ Unsanitized (Answer only if "YES" in 2.1)

SECTION 3. CERTIFICATION (Important: Read and sign after completing all form sections.)

I hereby certify that to the best of my knowledge and belief, for each toxic chemical listed in the statement, the annual reportable amount as defined in 40 CFR 372.27 (a), did not exceed 500 pounds for this reporting year and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.

Name and official title of owner/operator or senior management official:	Signature:	Date Signed:

SECTION 4. FACILITY IDENTIFICATION

4.1		TRI Facility ID Number	
Facility or Establishment Name		Facility or Establishment Name or Mailing Address(if different from street address)	
Street		Mailing Address	
City/County/State/Zip Code		City/State/Zip Code	Country (Non-US)

4.2	This report contains information for: (Important : check c or d if applicable)	c. ☐ A Federal facility	d. ☐ GOCO
4.3	Technical Contact Name		Telephone Number (include area code)
	Email Address		
4.4	Intentionally left blank		

4.5	SIC Code (s) (4 digits)	Primary a.	b.	c.	d.	e.	f.

4.6	Latitude	Degrees	Minutes	Seconds	Longitude	Degrees	Minutes	Seconds

4.7	Dun & Bradstreet Number(s) (9 digits)	4.8	EPA Identification Number (RCRA I.D. No.) (12 characters)	4.9	Facility NPDES Permit Number(s) (9 characters)	4.10	Underground Injection Well Code (UIC) I.D. Number(s) (12 digits)
a.		a.		a.		a.	
b.		b.		b.		b.	

SECTION 5. PARENT COMPANY INFORMATION

5.1	Name of Parent Company	NA ☐	
5.2	Parent Company's Dun & Bradstreet Number	NA ☐	

IMPORTANT: Type or print; read instructions before completing form

Page ___ of ___

EPA FORM A

PART II. CHEMICAL IDENTIFICATION **TRIFID:**

Do not use this form for reporting PBT chemicals including Dioxin and Dioxin-like Compounds*

SECTION 1. TOXIC CHEMICAL IDENTITY	**Report ___ of ___**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part 1, Section 2.1 is checked "yes". Generic Name must be structurally descriptive.)
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)
SECTION 1. TOXIC CHEMICAL IDENTITY	**Report ___ of ___**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part 1, Section 2.1 is checked "yes". Generic Name must be structurally descriptive.)
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)
SECTION 1. TOXIC CHEMICAL IDENTITY	**Report ___ of ___**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part 1, Section 2.1 is checked "yes". Generic Name must be structurally descriptive.)
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)
SECTION 1. TOXIC CHEMICAL IDENTITY	**Report ___ of ___**
1.1	CAS Number (Important: Enter only one number exactly as it appears on the Section 313 list. Enter category code if reporting a chemical category.)
1.2	Toxic Chemical or Chemical Category Name (Important: Enter only one name exactly as it appears on the Section 313 list.)
1.3	Generic Chemical Name (Important: Complete only if Part 1, Section 2.1 is checked "yes". Generic Name must be structurally descriptive.)
SECTION 2. MIXTURE COMPONENT IDENTITY	**(Important: DO NOT complete this section if you completed Section 1 above.)**
2.1	Generic Chemical Name Provided by Supplier (Important: Maximum of 70 characters, including numbers, letters, spaces, and punctuation.)

* See the TRI Reporting Forms and Instructions Manual for the list of PBT Chemicals (including Dioxin and Dioxin-like Compounds)

EPA Form 9350-2 (Rev. 02/2004) - Previous editions are obsolete. **(Make additional copies of this page, if needed)**

BILLING CODE 6560–50–C

B. Background on the Form A Certification Statement

Reporting to the TRI is required by section 313 of the Emergency Planning and Community Right-to-Know Act. The information contained in the Form R constitutes a ''report,'' and the submission of a report to the appropriate authorities constitutes ''reporting.'' The Pollution Prevention Act (PPA) of 1990 (Pub. L. 101–508) added additional reporting requirements for facilities that are required to submit Form Rs under section 313 of EPCRA. These data were required beginning with reports for calendar year 1991.

The purposes of the required ''reporting'' include providing the public with information on the releases and other waste management of EPCRA section 313 chemicals in their communities and providing EPA and other regulators with release and other waste management information to assist them in determining the need for future regulations. Facilities must report the quantities of routine and accidental releases, and releases resulting from catastrophic or other one time events of EPCRA section 313 chemicals, as well as the maximum amount of the EPCRA section 313 chemical on-site during the calendar year and the amount contained in wastes managed on-site or transferred off-site.

The EPA Form A Certification Statement was established in 1994. This form is based on an alternate reporting threshold for facilities with small quantities of an EPCRA section 313 chemical released or otherwise managed as waste. The Form A serves to certify that a facility is not subject to form R reporting for a specific toxic chemical [Toxic Chemical Release Inventory Reporting Forms and Instructions (EPA 260–B–04–001), pages 1–2].

The primary difference between information contained on Form R and the Form A Certification Statement is that the Form R provides details of releases and other waste management (*e.g.*, total quantity of releases to air, water, and land; on- and off-site recycling, energy recovery), while the Form A does not. The Form A Certification Statement may be used by reporters in lieu of the Form R for chemicals other than those specified as chemicals of special concern (*e.g.*, PBTs) if the reporter does not exceed the 1,000,000 pound threshold for amount of the chemical manufactured, processed, or otherwise used in the reporting year and if the annual reportable amount of a chemical is no more than 500 pounds for the year. The annual reportable amount (ARA) is the total of all quantities released (on- and off-site, but excluding catastrophic events), treated, recovered, recycled, and combusted at the facility, plus all amounts transferred from the facility off-site for the purpose of recycling, energy recovery, treatment, and/or disposal. If the reporter meets the criteria for using the Form A, s/he need only report the name of the chemical and certain facility identification information. In this case, the Form A serves as a range report which tells the public that the total production related waste for that chemical is between zero and 500 pounds. Several chemicals can be reported on each Form A.

C. Form A Eligibility—PBT Chemicals

Allows PBT Reporting Facilities with No Releases to the Environment to use Form A Provided They Do Not Exceed a 1,000,000 Pound ''Alternate Threshold'' and Have 500 Pounds or Less of Total Other Waste Management Quantities.

1. Description of Proposed Change and Considerations

Commenters in the November 2003 Stakeholder Dialogue and other venues have pointed out that there are a number of facilities that submit Form Rs that have zero total disposal or other releases in Section 8.1 of Form R. Some of the stakeholders expressed the opinion that the Agency should develop a simplified form for these reports. EPA notes that many reporters with zero total disposal or other releases in Section 8.1 still report positive quantities in sections 8.2 through 8.8. However, EPA believes that communities and other users of TRI information are less concerned about small volumes of on-site waste management when a facility is able to achieve zero release of these chemicals. EPA has thus determined that it is appropriate to allow Form A for such facilities, provided they have zero disposal and other releases for a particular PBT chemical.

The Agency believes that many facilities eligible for this regulatory option are already using more desirable waste management techniques as evidenced by the fact that they have zero releases. The Agency further believes this approach will comply with the goals of the PPA by encouraging facilities that are already not releasing any chemicals to accomplish further source reduction so that their other waste management totals are low enough to use this option (500 pounds or less). The Agency balanced this pollution prevention incentive with the needs of TRI data users who use this information for tracking and reporting trends in recycling, waste treatment, and energy recovery, and decided that limited Form A eligibility for PBT chemicals with zero releases would be an appropriate approach for providing burden relief to this group of reporters, while minimizing the loss of useful data.

a. What Is This Approach to Burden Reduction?

Form A Eligibility—PBT Chemicals. This approach allows facilities that report zero or NA for items a, b, c, and d of Section 8.1 of Form R (Zero Total Disposal or Other Releases) for a PBT chemical (except dioxin and dioxin-like compounds) and do not have any releases included in Section 8.8, but may have other waste management information in Sections 8.2 through 8.8 totaling 500 pounds or less, to now use the Form A Certification Statement. Section 8.8 of the Form R details the non-production related activities occurring at a facility. These could be releases or other waste management quantities. For this approach ''releases'' reported in Section 8.8 must be zero, but facilities may have other waste management quantities in Section 8.8, which will be totaled with the production related waste management quantities found in Sections 8.2–8.7.

To qualify for this option, facilities must manufacture, process, or otherwise use no more than 1 million pounds of a chemical, have zero disposal or other releases in Section 8.1 and 8.8, and have 500 pounds or less of total other waste management quantities in Sections 8.2 through 8.8. The Agency will refer to the sum of Sections 8.2 + 8.3 + 8.4 + 8.5 + 8.6 + 8.7+ 8.8 as the PBT Reportable Amount (PRA). This is a similar concept to the Annual Reportable Amount (ARA), which is the term referring to the sum of Sections 8.1 through 8.7 used to determine eligibility for Form A currently for non-PBT chemicals with the added restrictions that there be no releases requiring reporting under Sections 8.1 or 8.8 and the inclusion of Section 8.8 in determination of the PRA.

The inclusion of Section 8.8 waste management amounts in the PBT reportable amount is different from the approach taken for non-PBT chemicals. The Agency examined data from the 2003 reporting year and determined that some of the reporters which have zero releases had activity reported in Section 8.8 that appears to be associated with ongoing CERCLA or RCRA related remediation. The Agency believes local communities may be concerned about the progress of these activities and may wish to track quantities in Section 8.8 exceeding 500 pounds using the Form

R. Accordingly, EPA is proposing that these amounts be considered in determining the PRA. As a practical matter, the inclusion of Section 8.8 in the PRA only affects a small number of facilities.

Using a different basis for reportable amount for PBT and non-PBT chemicals does pose some risk of confusion among reporters, but PBTs already have a number of special provisions that are applicable to them. The Agency requests comment on the proposed approach for defining the PRA and specifically on whether Section 8.8 management amounts should be included in the definition of the PRA. The Agency also requests comment on whether the ARA (for non-PBTs) should be modified to include Section 8.8 management information which would be an alternate way of making the two approaches more consistent. EPA is also interested in information on the specific types of activities that are reported in Section 8.8.

b. Is the Approach Available to All TRI Chemicals?

This approach applies to PBT chemicals, except dioxin and dioxin-like compounds. Non-PBT chemicals are already eligible for the Form A Certification Statement provided they meet the current criteria for Form A use. (Note that Section III. C of today's proposal will propose new criteria for Form A use for non-PBT chemicals.) One example of the type of facility this approach could benefit is a producer of ceramic materials, such as dishes and cups, where 100% of the TRI chemical (in this case the lead in clay) goes into the product.

c. Why Is This Approach Being Considered for PBT Chemicals?

The Agency is focusing on providing burden relief for smaller businesses that have zero disposal or other releases. From the Stakeholder Dialogue, some commenters pointed out that there are reporters with no releases, but which also send small amounts of TRI chemicals into more desirable management techniques like recycling or energy recovery. Because the Agency encourages reuse and recycling, it decided to explore whether a clearly demarcated group could be defined. Expanding Form A eligibility as described in this approach would provide burden relief for PBT reporters with no disposal or other releases, but which do have small quantities of other waste management activities reportable in Sections 8.2 through 8.8. For facilities that have zero releases but also report zero for other waste management, the burden relief from this approach would be relatively small, but they would also be eligible to use Form A. While the Agency believes that most facilities that would qualify for this approach will be smaller businesses, the universe of facilities could include both large and small facilities.

Allowing the use of Form A for some PBTs is a departure from the current practice of excluding PBT reporters from Form A use. The Agency discussed its rationale for excluding all PBT chemicals from the alternate threshold of 1 million pounds in the PBT Proposed Rule (64 FR 58716, January 5, 1999). In the PBT Final Rule the Agency stated:

> EPA believes that use of the existing alternate threshold and reportable quantity for Form A would be inconsistent with the intent of expanded PBT chemical reporting. The general information provided on the Form A, on the quantities of the chemical that the facility manages as waste is insufficient for conducting meaningful analyses on PBT chemicals. (64 FR 58734)

In the PBT Final Rule, however, the Agency also indicated that it would revisit this issue after it had the opportunity to collect and analyze several years worth of data at the lowered thresholds (64 FR 58732, October 29, 1999). In particular, the Agency indicated that it might consider developing a new alternate threshold and reportable quantity appropriate for PBT chemicals.

To conduct this analysis of an appropriate criterion for use of Form A for PBT chemicals, the Agency reviewed the group of chemicals that it expects would qualify. Based on TRI data submitted in previous reporting years, the Agency expects the group of PBTs that would qualify for this approach to total 2703 forms. Of these, 2085 also reported zeros for other waste management quantities, while 618 report non-zero amounts for at least one of the sections 8.2 through 8.8 (Economic Analysis of Toxics Release Inventory Burden Reduction Proposed Rule, EPA, August, 2005). For facilities with zero in all waste management quantities, EPA believes the loss of data from moving to Form A would be minimal. In addition, EPA believes that many such facilities may choose to continue using Form R, since the burden of completing Form R for such facilities is small, and Form R allows them to show the public that they are neither releasing nor managing as waste any of the PBT chemical. The latter portion of the eligible facilities, those with some other waste management to report, are primarily forms for lead and lead compounds (44%), polycyclic aromatic compounds (PACs) including benzo(g,h,i)perylene (47%); and mercury and mercury compounds (7%). Together, these three chemicals account for 98% of the eligible reports with non-zero waste management quantities. A discussion of each of these groups and what is known about their waste management practices follows:

i. Lead and Lead Compounds

EPA conducted an extensive analysis of lead reporters in conjunction with the 2002 Public Data Release.[1] Based on this analysis, it appears that the types of management and disposal activities for which the Agency would be foregoing detailed information with this approach would be information on the recycling of small amounts of lead. In addition to having zero releases, these facilities would not be conducting the activities of energy recovery or treatment for destruction, because metals may not be reported in those categories.[2] The most common scenario for small lead producers is that they send lead waste off-site to a recycler. Consequently, for facilities filing a Form A for lead, TRI data users may presume that the facility is recycling 500 pounds of lead or less (e.g., the Form A serves as a range report of zreo to 500 pounds for recycling).

Another factor reviewed by the Agency in considering a new PRA threshold was whether there would be a substantial impact on information reported in the annual Public Data Release (PDR). To evaluate this issue, an analysis was performed to determine the amount of recycling (both on and off-site) for lead reporters anticipated to be eligible for the option. This amount equals approximately 67,000 pounds of recycling. When compared with the total for amount of lead recycling for all TRI reporters of nearly 800 million pounds (TRI Explorer, RY 2002 data, *http://www.epa.gov/triexplorer/*), this proves to be an extremely small percentage (0.0084 %). Given the totals of the lead recycling reported by these Form A eligible lead reporters compared to recycling totals for all TRI reporters, the Agency believes implementing this

[1] See ''Lead: TRI Lead and Lead Compounds Reporting Years 2000–2002'' (U.S. EPA) at *http://www.epa.gov/tri/tridata/tri02/index.htm.*

[2] The Agency's Toxic Chemical Release Inventory Reporting Forms and Instructions (EPA 260–B–05–001, January 2005, Appendix B) state that it is not appropriate to report energy recovery and treatment for destruction for metals with metal compounds categories with the exception of barium and barium compounds. When a facility reports metals and their associated metal compounds categories it only reports the parent metal portion of the compounds. The parent metal cannot be destroyed nor can it be burned for energy recovery so these metals should not be reported as such.

option will not significantly impact the use of TRI data.

ii. PACs and Benzo(g,h,i)perylene

Based on a review of potentially eligible facilities (i.e., those with less than 500 pounds), the only waste management activities conducted on PACs and benzo(g,h,i)perylene are burning in a boiler or industrial furnace for energy recovery or treatment for destruction via incineration. These activities could be conducted and result in zero releases as a consequence of the extremely high destruction efficiencies achieved in burning as explained in the next paragraph. Thus, similar to the case with lead, the Form A would serve as a range report of zero to 500 pounds for the waste management activity of combustion (either for energy recovery or destruction).

Facilities that produce small amounts of PACs (e.g., in waste) may burn the waste in a boiler or industrial furnace. Many combustion units of this type, i.e., boilers, furnaces, and incinerators, are subject to strict controls under either the Resource Conservation and Recovery Act (RCRA) or the Clean Air Act (CAA). Further, since the PBT rule, which lowered reporting thresholds for PACs, was published, the Agency has adopted new CAA Maximum Achievable Control Technology (MACT) Standards for hazardous waste combustion facilities that, among other things, help to ensure that 99.99% of these chemicals are destroyed during either energy recovery or incineration. These standards cover hazardous waste incinerators and cement kilns. (See 40 CFR part 63 and part 264.) The MACT Standards also control products of incomplete combustion that may result. With a PRA limiting the total PACs treated to 500 pounds or less, releases at the lowest allowable efficiency could be no more than 0.01% (or a maximum of .05 pounds) for facilities that must comply with these strict standards. The Guidance for Reporting Toxic Chemicals: Polycyclic Aromatic Compounds Category (EPA 260–9–01–01, August 2001) allows for this level of PACs to be rounded to zero. If, for any reason, treatment of PACs does result in a release of even one pound, the facility would no longer be eligible. So, while very small amounts of releases may occur from facilities combusting 500 pounds or less the PAC chemicals are unlikely to be released at levels which would require a non-zero response in Section 8.1 and, therefore, the completion of Form R.

The Agency also considered whether there would be a substantial impact on information reported in the annual TRI Public Data Release (PDR) as a result of the proposed rule. To evaluate this point, an analysis was performed to determine the relative amounts of these chemicals (PACs and benzo(g,h,i)perylene) reported by facilities that would be eligible for Form A. EPA analysis shows that in RY 2002, approximately 3,900 pounds of PACs were reported on 578 forms that meet the PRA and zero release requirements for Form A eligibility under the proposed option (Antisdel, Timothy. ''Data Requests for Phase II.'' E-mail to Marc Edmonds. May 5, 2005). This quantity constitutes 0.023% of the approximately 18,000,000 pounds of PAC's reported as recycled, burned for energy recovery or treated for destruction for 2002. There were approximately 3,200 pounds of benzo(g,h,i)perylene reported on 695 Form Rs that meet the Form A eligibility requirements. When compared to the approximately 450,000 pounds reported in 2002 by all TRI reporters as recycled, burned for energy recovery or treated for destruction, this amounts to only 0.7% of the total. Because the amounts of PACs and benzo(g,h,i)perylene that would not be reported on Form R under this option are such a small percentage of the totals and there are zero releases involved for these forms, the Agency believes that this approach will not have a significant impact on the use of TRI data.

iii. Mercury and Mercury Compounds

As noted above, approximately 7% of the forms eligible for this option report mercury. For mercury, as with lead, the only permissible non-zero quantity in Section 8 of Form R for those facilities that qualify is recycling.[3] One reason a facility would recycle but not release mercury is because the recycling of high-category mercury waste (greater than 260 ppm) is mandatory under RCRA's Land Disposal Restriction program (See 40 CFR 268.40 for D009 and U151). Because there are recordkeeping and management requirements associated with this program, there is an extremely low risk of mercury release to the environment from these activities. Consequently, similar to the case for lead, the Agency's primary consideration was whether a new PRA limit for mercury would have a substantial impact on information reported in the annual PDR. To evaluate this point, an analysis was performed to determine the relative amount of mercury reported by potentially eligible facilities. EPA analysis shows that in RY 2002, 3,700 pounds of mercury and mercury compounds were reported on the 186 forms that meet the eligibility requirements for Form A. When compared with the total mercury recycled by all TRI facilities (1,280,000 pounds), this amounts to only about 0.3% of the total. Because there are no releases and the amount of mercury that would not be reported is such a small percentage of the total, the Agency believes that this approach will not have a significant impact on the use of TRI data.

As discussed above, for this approach the Agency is now proposing to refer to the Annual Reportable Amount for PBTs as the PBT Reportable Amount (PRA). This PRA will still be 500 pounds or less, however, unlike the current Form A, the reportable amount for this option will include quantities that result from non-production related other waste management activities that are reported in Section 8.8 of the Form R, and will only be applied once a facility has met the first test that they have no releases to the environment. Also, as with non-PBT chemicals, the facility must also meet the alternate one million pound threshold for manufacturing, processing or otherwise use.

It is important to note that this new Form A option for PBT chemicals requires that there be zero release or disposal of the chemical. With this condition satisfied, the Agency believes the resulting other waste management quantities are being adequately addressed by facilities using recycling and treatment technologies through existing statutory and regulatory requirements. This approach reinforces these requirements by providing incentives for additional source reductions while still providing range reports to TRI data users on the amounts of chemicals recycled or otherwise managed as waste (without being released to the environment). Using EZ Query in Envirofacts (*www.epa.gov/envirofacts/*) or TRI Explorer data users would still be able to access individual PBT chemicals and list specific TRIFIDs and names of the facilities reporting an individual PBT chemical even if the facility submitted a Form A certification statement rather than a Form R.

d. How Often Is This Approach Available to TRI Facilities?

This approach would be available annually to any reporter having a chemical which qualifies in a given year.

e. What Are the Reporting Requirements?

This approach would allow facilities reporting PBTs (except dioxin and

[3] Ibid.

dioxin-like compounds) that have no releases, either in Section 8.1 or 8.8 of Form R, and which have other waste management information in Sections 8.2 through 8.8 totaling 500 pounds or less, to apply a 1 million pound manufacture, process, or otherwise use threshold to that chemical. If the facility is under the threshold it will be able to use the Form A Certification Statement.

f. Do My Recordkeeping Requirements Change?

No. The current recordkeeping requirements remain in effect. A facility must keep records for three years (40 CFR 372.10 and 372.27(b)).

2. Estimates of Potential Impacts

a. What Are the Potential Impacts of Reducing Reporting Burden?

From the standpoint of burden reduction hours, the Agency's analysis indicates that approximately 2,703 PBT forms would qualify for Form A use under this proposal, saving approximately 47,000 hours of reporting burden (Economic Analysis of Toxics Release Inventory Burden Reduction Proposed Rule, EPA, September 2005). As presented in Table 1, the currently approved burden estimate assumes completion of a full Form R for a PBT chemical requires 52.1 hours (including recordkeeping and submission). This is higher than the burden for a non-PBT of 30.2 hours due to the greater number of records that may need to be reviewed and calculations performed. Without today's rulemaking, facilities that would otherwise qualify for today's expansion of Form A eligibility to PBT chemicals would have to submit a full Form R.

Even facilities without waste management activities to report (i.e., zeros in Sections 8.1 through 8.8) will realize burden savings from the finalization of this proposal. These savings would accrue because the facility would no longer need to determine the maximum amount of the TRI chemical on-site at any one time in Section 4 of Form R. Moreover, the Production Ratio, which measures the relative percentage of a TRI chemical used in a product relative to the year before, would not have to be calculated if a facility submits a Form A. Eliminating the need to calculate these and other Form R data elements that are not included on the Form A result in an estimated burden savings of 17.5 hours per Form A. This is the difference between the estimated Form R burden of 52.1 hours and the estimated Form A burden of 34.6 hours. Under the revised methodology discussed earlier, the estimated burden reduction for PBT reporters would be approximately 20,000 hours instead of 47,000 hours. Regardless of methodology used, actual burden savings are likely to be less, given that not all Form A eligible respondents are likely to use Form A. Presently, only 54% of forms that appear to be eligible are actually submitted on Form A.

b. What Are the Potential Impacts to Data Users?

Regarding impacts to data users, the Agency feels that expanding Form A eligibility to PBT reporting facilities who have no releases to the environment but have some other waste management activities to report, will have negligible impacts on the utility of the TRI data and the TRI database. Some information in Sections 8.2 through 8.8 for facilities within the 500 pound PBT reportable amount will no longer be reported in detail. The Agency anticipates this will have a minimal impact on the national reports TRI generates annually because it is a low quantity of waste and will have a negligible impact on national totals. On an individual facility basis, data users will not have detailed waste management information for recycling, treatment, and energy recovery, but will know that the total of these amounts is within the range of zero to 500 pounds. Additionally, for some chemicals, information available to EPA and the public allows data users to reasonably predict the waste management method(s) most likely employed at the facility. Communities will still be able to access Form A facility information via Envirofacts or TRI Explorer. The Agency reiterates the importance of the information contained in the Form A Certification Statement and discussed in the Alternate Threshold for Facilities with Low Annual Reportable Amounts Final Rule (59 FR 61488, November 30, 1994). In that rule the Agency indicated that Form A serves the purposes of EPCRA Section 313 by providing the public with the basic information that a facility manufactures, processes, or otherwise uses a listed chemical in excess of current thresholds, that the annual reportable amount (in this case, the PRA) is 500 pounds or less, and that the facility did not exceed the alternate threshold for reporting. This information will be made available in the TRI database. Company records supporting such determinations must be made available to EPA inspectors upon request.

c. Are There Other Potential Impacts?

The Agency feels this reporting option will provide an incentive to TRI facilities to eliminate releases and reduce the need for other waste management by allowing certification in lieu of reporting for facilities that manage to eliminate all releases and reduce their other waste management activities to a level of 500 pounds or less.

3. Rationale for Expanding Form A Eligibility to PBT Chemicals

EPCRA allows EPA to adjust the reporting thresholds consistent with Section 313(f)(2) so long as the adjusted thresholds ''obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section.'' Expanding eligibility for Form A to PBTs (except dioxin and dioxin-like compounds) would define the category of facilities eligible for the increased threshold as those facilities that have zero releases and 500 pounds or less of the PRA for a particular chemical. Eligibility is determined on a chemical-by-chemical basis, therefore this approach would maintain reporting on a substantial majority of total releases because chemicals for which a facility has releases are not eligible for the alternate threshold. Only where a facility would have reported zero releases for a chemical would the facility be eligible; therefore, no data on releases are lost. Additionally, the requirement to submit a certification statement would allow certain facility information and information on other waste management activities to be made available to the public. As EPA explained in the 1994 Form A Rulemaking, the certification statement ''relates to a range volume for a given chemical'' of zero to 500 pounds, thereby providing the public with valuable information (59 FR 61497, November 30, 1994). In addition to comment on this proposal, the Agency also requests comment on whether any of the chemicals potentially eligible for this option are of sufficient concern so as to justify EPA excluding them from eligibility for Form A as is being done with dioxins and dioxin like compounds.

D. Expanding Form A Eligibility—Non-PBT Chemicals

Allows Non-PBT Reporting Facilities to use an Alternate Reporting Threshold Provided They Do Not Exceed 5000 Pounds of Total Other Waste Management Quantities.

1. Description of Proposed Change

a. What Is This Approach To Burden Reduction?

Facilities reporting non-PBT chemicals would now be able to use Form A if they meet the 1 million pound alternate reporting threshold and have 5000 pounds or less of total ''annual reportable amount,'' defined as the combined total quantity released at the facility, treated at the facility, recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycling, energy recovery, treatment, and/or disposal. This combined total corresponds to the quantity of the toxic chemical in production-related waste, *i.e.*, the sum of Section 8.1 through and including section 8.7 of the Form R.

b. Is This Approach Available to All TRI Chemicals?

This approach applies only to non-PBT chemicals.[4] Non-PBT chemicals are already potentially eligible for the Form A Certification Statement. In Reporting Year 2003, 12,020 non-PBT chemical submissions were made using Form A. An additional 10,000 non-PBT Form Rs appear to be eligible for Form A, though some of these may not qualify because they may exceed the one million pound reporting threshold. Today's proposal would increase the ARA from 500 pounds to 5000 pounds. Increasing the ARA would expand eligibility to an estimated 12,201 additional non-PBT forms.

c. How Often Is the Approach Available to TRI Facilities?

This option would be available annually. A facility reporting a non-PBT chemical may use the Form A Certification Statement as long as it continues to meet the 1 million pound alternate threshold and have 5000 pounds or less for the ARA. If a reporting facility exceeds the 5000 pound ARA in any reporting year, it would be required to submit Form R for that year.

d. What Are the Reporting Requirements?

Today's proposal would allow non-PBT reporting facilities that meet the 1 million pound manufacture, process, or otherwise use threshold and have 5000 pounds or less of total production related waste (i.e., the Annual Reportable Amount equal to the sum of Sections 8.1 + 8.2 + 8.3 + 8.4 + 8.5 + 8.6 + 8.7) to use the Form A Certification Statement in lieu of Form R. Form A can be found in the Toxic Chemical Release Inventory Reporting Forms and Instructions (EPA 260–B–04–001).

e. Do My Record Keeping Requirements Change?

No. The current record keeping requirements remain in effect. A facility submitting a Form A must keep records for three years (40 CFR sections 372.10 and 372.27(b)).

2. Estimates of Potential Impacts

a. What Are the Potential Impacts for Reducing Burden?

From the standpoint of burden reduction, the Agency's analysis indicates that this rule, if finalized, would extend Form A eligibility to around 12,200 non-PBT forms, saving approximately 117,000 hours of reporting burden (Economic Analysis of Toxics Release Inventory Burden Reduction Proposed Rule, EPA, September 2005). Without the opportunity to use Form A, facilities reporting non-PBTs above the current 500 pound ARA would still complete Form R and would need to determine, the maximum amount of the TRI chemical on-site at any one time in Section 4 of Form R as well as separate release and other waste management data. Moreover, the Production Ratio, which measures the relative percentage of a TRI chemical used in a product relative to the year before, would have to be calculated when a Form R is submitted. The current estimate of burden associated with completing a non-PBT Form R is 30.2 hours (including recordkeeping and submission). Eliminating the need to calculate data elements not on the Form A would save an estimated 9.6 hours per report. This is the difference between the estimate for a non-PBT Form R and the 20.6 hour estimate for a Form A. As noted above, under the revised burden methodology on which EPA is today requesting comment, potential burden savings would be reduced. For non-PBTs, the reduction would be approximately fifteen percent resulting in an estimate of approximately 100,000 hours of burden reduction. For PBTs and non-PBTs combined, the burden reduction estimated by the new methodology for this proposal would be approximately twenty-five percent less than the estimate using the current methodology. Regardless of the methodology used, it is again important to note that actual burden savings may be considerably less if historical rates of Form A use continue in the future.

b. What Are the Potential Impacts to Data Users?

After several years of reporting experience, the Agency believes it is appropriate to increase the Annual Reportable Amount (ARA) to expand eligibility for the Form A Certification Statement, and is today proposing to increase that amount to 5000 pounds. EPA has also analyzed and will be taking comment on 1000 and 2000 pound ARA levels. While the 500 pound ARA the Agency finalized in a 1994 rulemaking (59 FR 61488) gained a measure of success in reducing reporting burden, the Agency believes that increasing the ARA provides additional burden relief to facilities, but still allows the TRI program to report on a substantial majority of the releases. It also continues to provide valuable information to the public that fulfills the purposes of the TRI program.

Today's proposal would increase the number of potentially non-PBT Forms eligible for Form A by approximately 12,000 to a total of approximately 34,000. However, as noted above, only about half of potentially eligible respondents actually use Form A. Even if all newly eligible respondents use Form A, the total number of Form A submissions would still be projected to not exceed the number projected under the 1994 Final Rule that created Form A. Furthermore, even with the increase in eligible forms, the percentage of total release pounds that would be eligible to be reported on Form A with a 5000 pound ARA still remains at less than 1% of total releases reported on Form R nationwide. Under this higher threshold, approximately 14 million pounds of releases (0.34% of total releases) and 25 million pounds of total production-related waste (0.11% of all TRI total production-related waste) would be newly eligible for Form A reporting.

Under this approach, data users will know that for any non-PBT chemical submitted on a Form A, the totals for both releases (Section 8.1) and total production related waste (Sum of Sections 8.1 through and including Section 8.7) do not exceed 5000 pounds. TRI data users are currently able to access Form A facility information regarding the facility via Envirofacts and TRI Explorer (*http://www.epa.gov/triexplorer/*), so they would know the facility is a potential source. Data users

[4] For the purposes of this proposal and as described above, ''non-PBT chemicals'' indicates all listed TRI chemicals that are not ''chemicals of special concern,'' which are listed in 40 CFR 372.28.

would also still be able to obtain national information such as number of Form As filed each year by individual chemical. Using EZ Query in Envirofacts (*http://lwww.epa.gov/envirofacts*), data users will be able to access individual chemical Form As along with the TRI Facility Identification Numbers (TRIFIDs) and names of the facilities submitting the Form As.

Other potential impacts considered by the Agency in the creation of Form A in the 1994 rulemaking included estimates seeking to characterize the impact on a local level. That rulemaking assessed these impacts by attempting to estimate which counties might have all of the TRI information reported on Form A. As mentioned previously, the impacts projected in that rulemaking were not realized as only about half of the potentially eligible respondents actually switched to Form A.

A similar analysis was conducted for this rule, but ZIP codes were used in the current analysis because it was believed that they would provide a better measure of local impacts. Presently, depending on the year examined, there are between 500 and 550 ZIP codes where all TRI reporting is on Form A. Under the proposed rule, this number has the potential to increase by up to 655 ZIP codes (approximately seven percent of all ZIP codes with TRI reporters). However, this number is largely driven by the fact that many ZIP codes have only a few Form Rs. Of the 655 ZIP codes where all current Form Rs would become eligible for Form A, 88% currently have only one Form R and 10% have only two such forms.

In addition, at 5000 pounds, the Agency notes that information on approximately 26 additional chemicals could potentially be reported exclusively on Form A, though this would only occur if all newly eligible reporters use Form A, which is unlikely based on past experience. The majority of these chemicals are presently reported on only one or two Form Rs. Detailed analyses of the impacts on communities (ZIP codes) and individual chemicals is provided in the Economic Analysis. Table 3 below summarizes the potential impacts on reporting of raising the ARA to 1000, 2000, and 5000 pounds.

TABLE 3.—POTENTIAL INCREMENTAL* EFFECTS OF ALL NEWLY ELIGIBLE REPORTERS USING FORM A FOR NON-PBTS

ARA in pounds	Reports potentially eligible for Form A	Number of % chemicals potentially reported only on Form A	Percent of ZIP codes where all Form R's potentially converted to Form A's	Percent of total releases potentially reported on Form A	Percent of total production related waste potentially reported on Form A
1000	3,184	7	2	0.03	0.01
2000	6,838	16	3	0.11	0.03
5000	12,201	26	7	0.34	0.11

* **Note:** All estimates are incremental to current 500 pound ARA threshold.

A list of the chemicals can be found in the Economic Analysis (*See* Appendix A, TABLE A–2, Chemicals Where 100% Of Total Releases Would Potentially No Longer Be Reported on Form R Under the Expanded Eligibility For Form A: Non-PBT Chemicals Option).

3. Rationale for Expanding Form A Eligibility for Non-PBT Chemicals

One suggestion raised by a number of stakeholders for burden reduction was to increase the Annual Reportable Amount (ARA) from 500 to 5000 pounds. The Agency evaluated this suggestion and concluded that little information would be affected (*i.e.*, about 0.1% of Total Production Related Waste), if we extended the ARA for non-PBTs to 5000 pounds. Also, as described above in relation to lead, mercury, and PACs, a data user may be able to predict based on individual chemicals what waste management activity is likely to be used at a facility. The range of information provided by a Form A can be supplemented with information on typical industry practices and other regulatory frameworks that might apply to a specific chemical.

This Option is consistent with the authority given to EPA by EPCRA section 313(f)(2). As described above, EPCRA allows EPA to adjust the reporting thresholds so long as the adjusted thresholds ''obtain reporting on a substantial majority of total releases of the chemical at all facilities subject to the requirements of this section.'' Under this option, Form A eligibility would be extended for Non-PBT chemicals with Annual Reportable Amounts not exceeding 5000 pounds. Because the change will not affect significant amounts of data on releases or other waste management activities, this approach obtains the reporting on a substantial majority of total releases as required by the statute. Additionally, each Form A serves as a range report which informs the public that total releases, as well as total production related waste (which includes releases) is in the range of zero to 5000 pounds.

Among the other factors considered by the Agency was existing Form A utilization. The Agency observed that only slightly over half of the forms (54%) potentially eligible for Form A use take advantage of that option. There are a number of potential reasons for this utilization rate. First, a number of facilities may be using in excess of the 1 million pound alternative threshold [5] (*e.g.* users of feedstock chemicals like nitrapyrin and producers of pesticides or pharmaceuticals) and are therefore ineligible for Form A. Other facilities may report on Form R out of a desire to showcase their pollution prevention efforts. Still other facilities find the Form R to be an efficient mechanism for tracking their material balances. A facility, having collected all of this information, may also be making a Form R submission to demonstrate good environmental stewardship.

Regardless of the factors that prompt facilities to use Form R when they may be eligible for Form A, the Agency does not believe the rate of Form A utilization is likely to be significantly higher at a 5000 pound threshold than it currently is at the 500 pound ARA threshold. EPA consequently projects that, in practice, the total number of additional Form A submissions as a result of the higher threshold would also be about half of the newly eligible Form Rs. This means that the total number of Form As that would be filed would be comparable to what was originally projected for Form A at the

[5] The Agency cannot determine with certainty whether a facility has exceeded the one million pound threshold because facilities are not required to report totals for manufacture, processing, or otherwise use. Based on factors such as typical industry practices, the Agency has presumed that certain chemicals like the examples given would be likely to push a facility over the one million pound alternate threshold.

500 pound threshold assuming full utilization by all eligible filers. The Agency indicated in the original alternate threshold rulemaking (59 FR 61495) that it believed the 500 pound threshold would ''limit the loss of detailed information currently available, while providing industry with a reasonably attainable level [of burden reduction].'' The Agency believes this conclusion continues to be valid for the 5,000 pound ARA threshold. As noted above, Table 3 provides a summary of the potential impacts of changes to the ARA threshold from 1000 up to 5000 pounds. There are 26 additional chemicals for which releases may no longer be reported on Form R. Of those chemicals, the majority are pesticides. Chemical intermediates represent the second most occurring major class behind pesticides. As discussed above, the Form A certifications for these chemicals will provide a range by which waste management quantities and practices may be estimated. EPA believes that, taken together, the Form Rs and Form As that will be filed as a result of this rule will continue to provide valuable information to the public that fulfills the purposes of the TRI program. The Agency requests comment on its proposal to increase the Form A Certification Statement Annual Reportable Amount to 5000 pounds as well as on alternate ARA thresholds of 1000 and 2000 pounds. The Agency also seeks comment on whether changes to the ARA would adversely impact chemical specific or local community uses of the information.

IV. Requests for Public Comment

The Agency recognizes that some chemicals may be of particular concern and therefore extending the ARA to 5000, 2000, or 1,000 pounds for those chemicals may have a disproportionate impact on TRI data users. EPA notes that one known category of concern, PBTs, is not being considered under this Form A option, but recognizes that there may be other chemicals of particular concern as well. EPA requests comment on whether any of the chemicals potentially eligible for this option are of a sufficient level of concern so as to justify EPA excluding them from eligibility for the Form A at the higher ARA. Based on comments received and analyses conducted, we could decide to identify some set of chemicals that would not be eligible to use a higher ARA, should one be promulgated. EPA also recognizes that some stakeholders may be concerned about data no longer on the Form R when facilities instead file a Form A and requests comment on possible modifications to the Form A to address this concern.

The following is a list of items discussed in this document on which EPA solicits comment. This list is provided for the reader's reference. The Agency encourages commenters to review the relevant portions of the preamble that pertain to each area in order to provide a more complete response.

(1) The Agency solicits comment on the reasonableness and the accuracy of the methodology, engineering steps and time estimates of its July 2004 revised estimate of TRI reporting burden, as well as on the conclusions of the external peer review.

(2) The Agency requests comment on its proposal to increase the Form A Certification Statement Annual Reportable Amount to 5000 pounds as well as on alternate ARA thresholds of 1000 and 2000 pounds. The Agency also seeks comment on whether changes to the ARA would adversely impact chemical specific or local community uses of the information. EPA requests comment on whether any of the chemicals potentially eligible for this option are of a sufficient level of concern so as to justify EPA excluding them from eligibility for the Form A at the higher ARA.

(3) EPA requests comment on how extending Form A eligibility to PBT chemicals (except dioxins and dioxin compounds) will impact the reporting of TRI chemicals. EPA also requests comment on whether any of the chemicals potentially eligible for this option are of a sufficient level of concern so as to justify EPA excluding them from eligibility for the Form A.

(4) The Agency requests comment on the proposed approach for defining the PRA and specifically on whether Section 8.8 management amounts should be included in the definition of the PRA. The Agency also requests comment on whether the ARA (for non-PBTs) should be modified to include Section 8.8 management information which would be an alternate way of making the two approaches more consistent. EPA is also interested in information on the specific types of activities that are reported in Section 8.8.

(5) To estimate the cost savings, incremental costs, economic impacts and benefits from this rule to affected regulated entities, EPA completed an economic analysis for this rule. Copies of these analyses (entitled ''Economic Assessment of the Burden Reduction—Phase II—Proposed Rule'') have been placed in the TRI docket for public review. The Agency solicits comment on the methodology and results from the economic analysis as well as any data that the public feels would be useful in a revised analysis.

V. What Are the Statutory and Executive Order Reviews Associated With This Action?

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of the proposed regulatory action. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that today's proposed rule is a significant regulatory action. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the docket to today's proposal.

To estimate the cost savings, incremental costs, economic impacts and benefits from this rule to affected regulated entities, EPA completed an economic analysis for this rule. Copies of these analyses (entitled ''Economic Analysis of the Proposed Toxics Release Inventory Phase II Burden Reduction Rule'') have been placed in the TRI docket for public review. The Agency solicits comment on the methodology and results from the analysis as well as any data that the public feels would be useful in a revised analysis.

1. Methodology

To estimate the cost savings, incremental costs, economic impacts, and benefits of this rule, the Agency

estimated both the cost and burden of completing Form R and Form A as well as the number of affected entities. The Agency has used 2002 reporting year for TRI data. For all options under consideration, the Agency identified the number of potentially affected respondents currently completing Form Rs that may be eligible for burden savings under the new Form A eligibility for PBT Chemicals and the expanded Form A eligibility for non-PBT chemicals. For each option, the Agency compared the baseline burden for completing Form R and compared it with the post-regulatory option under consideration. The total burden and cost savings associated with each proposed options are the product of the unit burden and cost savings per form times the number of forms eligible for each option.

2. Cost and Burden Savings Results

Table 4 summarizes the potential annual cost and burden savings of the Phase II TRI Burden Reduction proposal, if all newly eligible reports were filed using Form A.

TABLE 4.—POTENTIAL ANNUAL COST AND BURDEN SAVINGS OF THE PHASE II TRI BURDEN REDUCTION PROPOSAL

Option	Number of eligible Form R's	Number of potentially eligible facilities	Burden savings per Form R (hours)	Total annual burden savings (hours)	Cost savings per Form R	Total annual cost savings	Percent of total cost/burden
New Form A Eligibilty for PBT chemicals	2,703	2,064	17.5	47,303	$790	$2,136,392	1.2
Increase ARA for Non-PBT chemicals to 1000 pounds	3,184	2,396	9.6	30,566	430	1,368,650	0.8
Increase ARA for Non-PBT chemicals to 2000 pounds	6,838	4,220	9.6	65,645	430	2,939,331	1.7
Increase ARA for Non-PBT chemicals to 5000 pounds	12,201	6,461	9.6	117,130	430	5,244,630	3.1
Total of Proposed Options				164,432		7,381,022	4.3

EPA estimates that the total annual burden savings for this proposal is 164,432 hours. EPA estimates the total annual cost savings for this proposal is $7.4 million. Average annual cost savings for facilities submitting Form As in lieu of Form Rs is $430 per form for non-PBT reports and $790 per form for PBT reports.

3. Impacts to Data

EPA has evaluated the potential impacts to data reported to the public for the proposed options and determined that the risk of significant impacts is minimal. For New Form A Eligibility for PBT chemicals, the TRI chemical submitted must not have either production-related or non-production related releases to the environment. The balance of management of these TRI chemicals is most likely either recycling or non-dissipative management through energy recovery or treatment for destruction at quantities totaling 500 pounds or less. For Expanded Form A Eligibility for non-PBT chemicals, the Agency has evaluated both total release pounds and total production related waste pounds that would not be reported using Form R if this option is finalized. Relative to the current ARA of 500 pounds, approximately fifteen million additional release pounds (0.34 percent of all TRI release lbs) and 27 million additional total production related waste pounds (0.11 percent of all TRI total production related waste pounds) would be eligible for Form A reporting if this option were finalized. As noted above, based on historical experience, EPA projects that not all eligible reporters will use Form A. For those that do, the Form A provides a range report of zero to 5,000 pounds for both releases and total production related waste. Further information on how specific chemicals are affected can be found in the economic analysis of this rulemaking.

B. Paperwork Reduction Act

EPA calculated the potential reporting and recordkeeping burden reduction for this rule to be 202,000 hours and the potential cost savings to be $9.2 million per year. As noted above, actual burden reduction and cost savings will likely be somewhat less. Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. That 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.

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.

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 small business that has fewer than 1000 or 100 employees per firm depending upon the SIC code the firm primarily is classified; (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.

The economic impact analysis conducted for today's proposal indicates that these revisions to Form R and Form A would generally result in savings to affected entities compared to baseline requirements. The rule is not expected to result in a net cost to any affected entity. Thus, adverse impacts are not anticipated.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

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. This rule is estimated to save compliance costs of $9.2 million annually to the private sector. In addition, this rule does not create any additional federally enforceable duty for State, local and tribal governments. Thus, today's 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 proposed 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.

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 6, 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes''. This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175.

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Today's proposed rule reduces recordkeeping and reporting burden for TRI reporters. It will not cause reductions in supply or production of oil, fuel, coal, or electricity. Nor will it result in increased energy prices, increased cost of energy distribution, or an increased dependence on foreign supplies of energy.

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

''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that EPA determines (1) ''economically significant'' as defined under Executive Order 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 potential effective and reasonably feasible alternatives considered by the Agency. This proposed rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, though OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not establish technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

The TRI is an environmental information program. While it provides important information that may indirectly lead to improved health and environmental conditions on the community level, it is not an emission control regulation that could directly impact health and environmental outcomes in a community. The principal consequence of finalizing today's action would be to reduce the level of detail available on some toxic chemical releases or management. However, as pointed out in the previous discussions, the impacts will be very small in terms of total national figures. EPA believes that the data provided under this proposed rule will continue to provide valuable information that fulfills the purposes of the TRI program.

Further, only the second of today's approaches would have any effect on reporting of chemicals released to the environment. The first approach requires that facilities reporting PBTs have no releases in order to be eligible for Form A. EPA has no indication that either option will disproportionately impact minority or low-income communities.

List of Subjects in 40 CFR Part 372

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

Dated: September 21, 2005.

Stephen L. Johnson,

Administrator.

For the reasons discussed in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 372 as follows:

PART 372—[AMENDED]

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

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

Subpart A—[Amended]

2. Revise § 372.10(d) introductory text to read as follows:

§ 372.10 Recordkeeping.

* * * * *

(d) Each owner or operator who determines that the owner operator may apply one of the alternate thresholds as specified under § 372.27(a) must retain the following records for a period of 3 years from the date of the submission of the certification statement as required under § 372.27(b):

* * * * *

Subpart B—[Amended]

3. Section 372.27 is amended as follows:

i. Revise section heading.

ii. Revise paragraph (a).

iii. Revise paragraph (b).

iv. Revise paragraph (e).

§ 372.27 Alternate thresholds and certifications.

(a) Except as provided in paragraph (e) of this section:

(1) With respect to the manufacture, process, or otherwise use of a toxic chemical, the owner or operator of a facility may apply an alternate threshold of 1 million pounds per year to that chemical if the owner or operator calculates that the facility would have an annual reportable amount of that toxic chemical not exceeding 5000 pounds for the combined total quantities released at the facility, disposed within the facility, treated at the facility (as represented by amounts destroyed or converted by treatment processes), recovered at the facility as a result of recycle operations, combusted for the purpose of energy recovery at the facility, and amounts transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, and/or disposal. These volumes correspond to the sum of amounts reportable for data elements on EPA Form R (EPA Form 9350–1; Rev. 12/4/93) as Part II column B or sections 8.1 (quantity released), 8.2 (quantity used for energy recovery on-site), 8.3 (quantity used for energy recovery off-site), 8.4 (quantity recycled on-site), 8.5 (quantity recycled off-site), 8.6 (quantity treated on-site), and 8.7 (quantity treated off-site).

(2) With respect to the manufacture, process, or otherwise use of a toxic chemical, the owner or operator of a facility may apply an alternate threshold of 1 million pounds per year to that chemical if the owner or operator calculates that the facility would have:

(i) Zero disposal or other releases (including disposal or other releases that resulted from catastrophic events); and

(ii) A PBT annual reportable amount of that toxic chemical not exceeding 500 pounds. The PBT annual reportable amount is the combined total of:

(A) Quantities treated for destruction at the facility;

(B) Quantities recovered at the facility as a result of recycle operations;

(C) Quantities combusted for the purpose of energy recovery at the facility;

(D) Quantities transferred from the facility to off-site locations for the purpose of recycle, energy recovery, treatment, and/or disposal; and

(E) Quantities managed through recycle, energy recovery, or treatment for destruction that were the result of remedial actions, catastrophic events, or one-time events not associated with production processes during the reporting year.

(b) If an owner or operator of a facility determines that the owner or operator may apply one of the alternate reporting thresholds specified in paragraph (a) of this section for a specific toxic chemical, the owner or operator is not required to submit a report for that chemical under § 372.30, but must submit a certification statement that contains the information required in § 372.95. The owner or operator of the facility must also keep records as specified in § 372.10(d).

* * * * *

(e) The alternative thresholds described in paragraph (a) of this section are limited by the following:

(1) The provisions of paragraph (a)(1) of this section do not apply to any chemicals listed in § 372.28.

(2) Dioxins and dioxin-like compounds are not eligible for the alternate thresholds described in paragraph (a) of this section.

Subpart E—[Amended]

4. Section 372.95 is amended as follows:

i. Revise section heading.

ii. Revise paragraph (b) introductory text.

iii. Revise paragraph (b)(4).

§ 372.95 Alternate threshold certifications and instructions.

* * * * *

(b) *Alternate threshold certification statement elements.* The following information must be reported on an alternate threshold certification statement pursuant to § 372.27(b):

* * * * *

(4) Signature of a senior management official certifying one of the following:

(i) Pursuant to 40 CFR 372.27(a)(1), ''I hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, the annual reportable amount, as defined in 40 CFR 372.27(a)(1), did not exceed 5000 pounds for this reporting year and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year;'' and/or

(ii) Pursuant to 40 CFR 372.27(a)(3), ''I hereby certify that to the best of my knowledge and belief for the toxic chemical listed in this statement, there were zero disposals or other releases to the environment (including disposals or other releases that resulted from catastrophic events), the ''PBT Annual Reportable Amount,'' as defined in 40 CFR 372.27(a)(3) did not exceed 500 pounds for this reporting year, and that the chemical was manufactured, or processed, or otherwise used in an amount not exceeding 1 million pounds during this reporting year.''

* * * * *

[FR Doc. 05–19710 Filed 10–3–05; 8:45 am]

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