

SIC system which has traditionally been used by the federal government for collecting and organizing industry-related statistics. OMB's Economic Classification Policy Committee (ECPC) developed NAICS in cooperating with the Instituto Nacional de Estadística, Geografía e Informática (INEGI) of Mexico and Statistics Canada, in order to standardize the industrial statistics produced by the three countries. It was felt that the SIC system was inadequate for this purpose, in part because it classified industries on the basis of several different economic concepts. NAICS, on the other hand, classifies establishments according to similarities in the processes used to produce goods and services. NAICS is the first industry classification system developed in accordance with a single principle of aggregation, the principle that producing units that use similar production processes should be grouped together in the classification.

Notwithstanding its primary function as a tool to aid in the collection and organization of industrial statistical information, OMB recognized that NAICS, like its predecessor, SIC, may also be effectively used for nonstatistical purposes including administrative, tax and regulatory programs. However, in its notice of final decision adopting NAICS for the United States, OMB instructed the heads of government agencies to determine that NAICS industry definitions are appropriate for the implementation of such programs before agencies use NAICS codes in them. See 62 FR 17288, 17294. For the reasons discussed in Unit IV.D. below, EPA's Administrator has determined that NAICS industry definitions will be appropriate for implementing section 313 of EPCRA and section 6607 of the PPA. EPA is therefore proposing to amend 40 CFR part 372 to include the NAICS codes that correspond to the SIC codes that are currently subject to the reporting requirements of section 313 of EPCRA and section 6607 of the PPA. In addition, EPA is proposing to amend 40 CFR 372.85(b)(5) and 372.95(b)(10) such that covered facilities would report their appropriate NAICS codes on the TRI reporting form, Form R, and in Alternate Threshold Certification Statements, Form A, where applicable. Covered facilities would be required to report both their appropriate SIC and NAICS codes on Form R and on the Alternate Threshold Certification Statements for the first full reporting year after the effective date of the final rule, and thereafter their NAICS codes only. EPA is also proposing amendments to 40 CFR 372.38(g) and

(h), and 40 CFR 372.45 to include the NAICS codes that will be subject to the exemption and notification requirements of those sections.

Finally, EPA is proposing to amend 40 CFR 372.38(e) to extend the exemption provided therein to owners of covered facilities who lease, with no other business interest, such facilities to operators of establishment that are classified in any SIC code or NAICS code that is subject to TRI reporting requirements. EPA solicits your comments on these proposals and welcomes your suggestions for facilitating the transition of TRI reporting from SIC codes to NAICS codes.

*C. Will This Proposed Rule Affect the Universe of Facilities That Are Currently Required To Report to TRI?*

This proposed rule would not affect the universe of facilities that is currently required to report under section 313 of EPCRA and section 6607 of the PPA because EPA is not proposing to add or delete industry groups from the list of industries that are currently subject to section 313 reporting requirements. EPA is simply assigning NAICS codes to those SIC codes that are already subject to section 313 reporting requirements, and requiring covered facilities in those industries to report the NAICS code that corresponds to the covered SIC code.

For purposes of TRI reporting, section 313 defines covered facilities in terms of SIC codes. Facilities in the affected SIC codes are required to report, regardless of how those facilities are designated in other nomenclature systems. Because inclusion in a specific SIC code is what triggers the reporting obligation, to use NAICS codes, EPA must be able to "cross-walk" reliably between SIC codes and NAICS codes. However, SIC codes and NAICS codes do not always correspond directly; certain industries that are classified in the "manufacturing" sector in SIC (*i.e.*, SIC codes 20 through 39), and therefore are subject to section 313 of EPCRA and section 6607 of the PPA, are not classified in the "manufacturing" sector in NAICS (*i.e.*, NAICS codes 31 through 33). For example, Lumber and Wood Products (SIC 24) corresponds to Logging (NAICS 11331), which is a non-manufacturing industry in NAICS. EPA has identified 18 SIC manufacturing industries that are currently subject to section 313 of EPCRA and section 6607 of the PPA that are not classified as NAICS manufacturing industries. Owners and operators of such facilities would continue to report under the appropriate NAICS designations (provided they meet all other applicable

TRI reporting criteria), despite the fact that the facilities are not classified in a manufacturing industry in NAICS. Conversely, EPA has identified 26 SIC industries that are not currently subject to section 313 of EPCRA and section 6607 of the PPA, but which are classified as NAICS manufacturing industries. For example, retail bakeries are classified in the retail sector in SIC (SIC 5461), but are classified in the manufacturing sector in NAICS (NAICS 311811). As explained above, because this current action is not intended to add to or delete from the list of industry groups that is currently subject to TRI, the individual facilities not included in the SIC manufacturing codes will not be required to report simply because NAICS places the industry in the manufacturing sector.

*D. Why Is EPA Proposing To Use NAICS in Addition to SIC for Section 313 and Section 6607 Reporting Purposes?*

EPA believes it is appropriate to amend 40 CFR part 372 to include the NAICS codes that correspond to the SIC codes that are currently subject to TRI reporting requirements for several reasons. First, the SIC manual has not been updated since 1987 despite significant changes in the national economy, and limitations in the structure of the SIC system have led to difficulties in classifying new and emerging industries. (North American Industry Classification System manual, 1997, p.21). As a result, the existing SIC systems does not reflect many of the important changes that have occurred within the national economy over the last decade or so. More importantly, it will not be updated in the future because of OMB's adoption of NAICS as the United States' new industry classification system. Accordingly, facilities that come into existence in the future will not have experience using SIC codes and may have difficulty determining whether or not they are subject to TRI requirements. Moreover, as OMB has recognized, the SIC system is somewhat cumbersome and inflexible to use because it classifies industries on the basis of several economic principles rather than a single, consistent principle (North American Industry Classification System manual, 1997, p.21). NAICS, on the other hand, represents a more targeted approach to industry classification, focusing primarily on production processes. Finally, the conversion to NAICS is part of EPA's data standards program, which helps promote efficient data exchange and integration through consistently defined and formatted data. Using NAICS for TRI reporting purposes will enable more