

well. See 40 CFR 372.22(b) and 372.23 of the proposed regulatory text below. This is primarily to help owners or operators of covered facilities identify the appropriate NAICS code to be used on reporting forms. By continuing to use SIC codes in the regulatory text, EPA can ensure that currently covered facilities will continue to be covered even if EPA made a mistake in the translation from SIC codes to NAICS codes. Finally, the owner or operator of a covered facility might come to a different conclusion than EPA did with respect to the NAICS code that corresponds to the facility's SIC code. If the regulatory text only included NAICS codes, the owner or operator of such a facility might assume that she is no longer subject to TRI requirements. The proposed regulatory text would ensure that the owner or operator would understand that she must continue to report regardless of whether or not she agrees with EPA's determination on the NAICS code that most appropriately corresponds to her facility's SIC code. In sum, facilities that are currently reporting to TRI because they are classified in SIC codes that are currently subject to TRI reporting requirements would continue to report under this proposed rule if they satisfy the applicable reporting criteria.

EPA is proposing that owners or operators of covered facilities report both SIC codes and NAICS codes during the first full reporting period after the effective date of the final rule. Reporting both SIC and NAICS codes for the first full reporting period is necessary to facilitate continued time-series analysis of the TRI data. Each year, TRI data are compiled, analyzed and presented to the public in a report called the Toxics Release Inventory Public Data Release. A substantial part of the report is devoted to an analysis of the data by industry group for the current year and over time. Industry-specific and chemical-specific on- and off-site releases and other waste management data are analyzed for the most recent reporting year, from 1988 to the present for TRI's original release and transfer categories (since 1991 for the other waste management data), and from 1998 to the present for new industries reporting to TRI since 1998. Time-series analyses of TRI data are critical for reviewing trends in overall releases and management of waste and for measuring industry progress in these areas. For example, the 2000 TRI Public Data Release (presenting 1998 data) includes a table that presents percent change in total TRI on-site and off-site releases for each of the 19 manufacturing industries,

designated by their 2-digit SIC major group code. In all but one of the manufacturing categories, total on- and off-site releases decreased from 1988 to 1998, in several industries by well over 50%. In order to continue to present these types of important analyses to the public, careful tracking of code changes during the SIC to NAICS transition is critical.

Moreover, a dual reporting requirement for the transition reporting period will be useful in fine tuning the list of NAICS industries that corresponds to the list of SIC industries that are currently subject to TRI requirements. The dual reporting for the transition reporting period will serve as an extra quality assurance measure to ensure that with the transition to reporting by NAICS code, no additional industry groups are inadvertently added, and that all currently reporting industries are included. EPA has concluded that the additional burden associated with requiring covered facilities to report both SIC and NAICS codes for one year is negligible. See the discussion below in Unit VI.

F. Why Is EPA Proposing To Extend the Exemption in 40 CFR 372.38(e)?

The TRI regulations 40 CFR 372.38(e) exempt from TRI reporting requirements, "owners of facilities such as industrial parks, all or part of which are leased to persons who operate establishments within SIC code 20 through 39 where the owner has no other business interest in the operation of the covered facility." The exemption acknowledges the difficulties in requiring such an owner to report when he is not in a position which would allow him to determine compliance or report the required information. 53 FR 4499, 4502. EPA believes it is appropriate to extend this exemption to owners of facilities that lease such facilities to operators of establishments within the SIC codes added to TRI in the Industry Expansion Rule, when such owners have no other business interest in the operation of such establishments. The rationale for the exemption applies equally to those owners as it does to owners of facilities who lease them to operators of establishments in SIC codes 20 through 39. Because the proposed amendment to 40 CFR 372.38(e) extends the exemption to other industries, there is no cost to industry associated with it.

G. What Are the Issues on Which EPA Is Interested in Receiving Comments?

EPA is particularly interested in receiving comments on the following issues:

(i) The proposed list of NAICS industries that correspond to the SIC industries that are subject to TRI requirements.

(ii) Whether the dual reporting requirement (reporting of both SIC and NAICS codes) should be included for the first reporting period after the effective date of the final rule, and whether the requirement should be extended into subsequent reporting years.

(iii) The estimated burden of the new reporting requirements.

(iv) Alternatives for the regulatory text that would accomplish the objectives specified in this proposal.

VI. What Additional Reporting Burden Is Associated With This Action?

EPA has evaluated the potential burden and cost of using NAICS for TRI reporting as described in this proposal. EPA expects that the burden associated with this change for affected facilities would be negligible. OMB adopted NAICS as the United States' industry classification system in 1997, and facilities are or should be already familiar with their NAICS codes from other administrative and regulatory reporting requirements of EPA and other governmental entities. EPA does not expect or intend that this proposed rule would affect the universe of facilities that are currently required to report to TRI. EPA would simply be assigning NAICS industry codes to those SIC industries which are already subject to section 313 reporting requirements, and requiring covered facilities in those industries to report under the NAICS code that corresponds to the covered SIC code. Only those facilities that meet the SIC code requirements in 40 CFR 372.22(b) would continue to report releases and other waste management quantities of toxic chemicals to the TRI.

VII. What Are the References Cited in This Proposed Rule?

1. Executive Office of the President, Office of Management and Budget, *North American Industry Classification System*, United States, 1997 (NTIS PB98-127293).

2. Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual*, 1987 (NTIS PB87-100012).

1. 1997 NAICS United States Structure, Including Relationship to 1987 U.S. SIC, *Table 1—1997 NAICS United States Matched to 1987 U.S. SIC, Table 2—1987 U.S. SIC Matched to 1997 NAICS United States*. (<http://www.census.gov/epcd/www/naicstab.htm>).