

concluded that section 8(e) reporting will continue to be required for chemical product contamination, because EPA, uniquely among Federal agencies, has the authority to address all potential health and environmental risk aspects of a chemical's life cycle.

Regarding the issue of expanding the reporting exemption in Part VII. of the section 8 policy statement to allow reporting within the time frame provided by the individual reporting authorities, as originally proposed in 1993, companies would not be required to report information under section 8(e) if the information was required to be submitted under other EPA or EPA-delegated authorities, so long as the other statute required reporting within 30 days from the day a person who was required to report obtained information required to be submitted. Commenters noted that only a few of the regulations required reporting within 30 days, so the exemption would be of limited value given that companies would still be required to report the information under section 8(e) as well as under the other regulations. To address this concern, the reporting policy is being changed. Companies would be exempt from reporting information under section 8(e) as long as the company complies with the relevant reporting requirement of another statute, as described in Part VII. of the TSCA section 8(e) policy and guidance, that requires reporting within 90 days from the day a person obtained information required to be submitted. This change was based on information submitted by industry showing that roughly 70 percent of the reporting requirements have reporting periods of 90 days or less (see Ref. 3 at page 29, Table 1). Further, an examination of the cited reporting requirements shows that the 90-day period will capture reports that otherwise would be required under section 8(e), namely newly found environmental contamination from spills, leaking tanks, and other types of releases. By and large, the types of reporting for which the statutory time limits for filing of mandatory reports are longer than 90 days include periodic summary reports, minor operating changes allowed by permits, etc.

It appears that most or all of the exposure-related or site-specific release/detection information that might be considered reportable under section 8(e) would be required to be reported under other authorities within 90 days of such information being obtained. Therefore, there would be a negligible reduction of the reporting burden if authorities whose reporting time limits exceed 90 days were also exempted from reporting

under section 8(e). Also, such a change seems inconsistent with the statutory language that substantial risk information be "immediately" reported. Given that a 90-day limit appears to resolve most of the problem with potentially duplicative reporting, and that longer limits may not be consistent with the statutory directive for "immediate reporting," EPA has decided to keep the reporting time limit at 90 days as proposed in the 1995 draft guidance.

Additionally, as proposed in the 1993 and repropounded 1995 draft guidance, EPA is adopting the interpretation that section 8(e) notices for information other than "emergency incidents of environmental contamination" should be submitted within 30 calendar days. Thus the Agency is changing in this guidance document its interpretation of the term "immediately" in this context. EPA believes the term should be interpreted more flexibly based upon the Agency's experience of processing and use of data reported under section 8(e) and comments received from interested parties. EPA has concluded that, with the exception of reporting related to emergency incidents of environmental contamination, section 8(e) reports should be submitted to EPA within 30 calendar days of obtaining the reportable information, instead of the 15 working days that was articulated in previous guidance. The Agency believes that application of this interpretation for the statutory term "immediately" will not adversely impact section 8(e)'s purpose of assuring that the Agency becomes aware of important risk-related information in a timely manner. In addition, providing 30 calendar days for reporting to the Agency is consistent with the regulations under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, which provides that agencies should not require a written response in fewer than 30 days after receipt without demonstrating that it is necessary to satisfy a statutory requirement or other substantial need (5 CFR 1320.5(d)(2)(ii)). Although TSCA section 8(e) clearly provides the necessary statutory justification to require a shorter response time, the Agency is using the minimum time frame established under the PRA to respond to the commenters who indicated the need for additional time to process a submission.

C. EPA's reinstatement of Part V.(c)

"Emergency incidents of environmental contamination." Part V.(c) of the 1978 Policy Statement, which addresses what constitutes a "substantial risk" in the context of

emergency incidents of environmental contamination, was suspended on June 20, 1991 (56 FR 28458). EPA has decided, for the following reasons, to reinstate Part V.(c):

- EPA is making a number of changes to the reporting guidance that would affect emergency incident reporting. Changes include reporting to the National Response Center, elimination of follow-up written section 8(e) reports, and expansion of the list of authorities persons could report under in lieu of section 8(e).

- Part V.(c) includes the basic elements of the new Part V.(b)(1) guidance: The adverse effect(s) in question have been ascribed to the chemical; human or environmental exposure may occur; exposure (in this case, an emergency release) threatens humans and/or non-human organisms with serious adverse effects.

- EPA believes such reporting under section 8(e) is still necessary. Although many release incidents are covered under other statutes, there may be instances where chemicals that have not yet been reviewed for release reporting under other EPA programs have the requisite hazard characteristics to require a response/notification if there is a release to the environment. In this regard, EPA agrees with a comment from the Chemical Manufacturers Association (CMA)—CMA is now the American Chemistry Council) indicating that, if EPA retains the distinction between emergency and non-emergency situations of environmental contamination, "emergency" should be defined. CMA stated: "CMA believes an 'emergency' should be defined as a situation in which a significant threat to human health or the environment is imminent or already present, and where immediate action is necessary to abate the hazard. Such an approach would be consistent with the Agency's previous description of non-emergency situations of environmental contamination as situations which do not require immediate action, but nevertheless reasonably support the conclusion of 'substantial risk.'" (Ref. 4). EPA believes that revised Part V.(b)(1), the reinstated Part V.(c), and the reporting procedures adequately make the distinction described by CMA in that a "substantial risk" in this context is an "emergency incident of environmental contamination" that "seriously threatens" humans or the environment.

IV. Claims of Confidentiality for Data Submitted under TSCA Section 8(e)

In general, health and safety information submitted to EPA—even as confidential—may be released to the