

appropriate State and local authorities under EPCRA section 304.

B. Background

In today's notice of proposed rulemaking (NPRM), EPA is proposing to adjust the statutory one-pound RQs for 28 individual carbamates and five carbamate-related waste streams. Today's rulemaking includes proposed RQ adjustments not only for individual carbamates, but also for thiocarbamates, dithiocarbamates, carbamoyl oximes, and several other individual substances that are closely related to carbamate production and/or waste generation. For purposes of simplicity, however, the preamble to today's proposed rule refers to all 28 individual substances for which RQ adjustments are being proposed as "carbamates," and to the five waste streams as "carbamate-related" waste streams. In addition, EPA is proposing to adjust the one-pound statutory RQ of another hazardous waste stream, K178, which is unrelated to the carbamates addressed in this rule (see Section III.C.8 of today's preamble for information regarding K178). A summary of the developments leading up to today's proposed rulemaking as it relates to the carbamate-related substances is provided below.

On November 8, 1984, Congress amended RCRA by enacting the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6901 *et seq.* In one provision of HSWA—a newly added RCRA section 3001(e)(2)—Congress directed EPA to determine whether several wastes, including wastes generated from the production of carbamates, should be listed as RCRA hazardous wastes. Carbamates are widely used as active ingredients in pesticides, herbicides, insecticides, and fungicides, and in the production of synthetic rubber. Before Congress enacted HSWA in 1984, EPA already had regulated several carbamate substances under RCRA, CERCLA, and other statutes.

Based on our evaluation of the carbamate production wastes, we published on March 1, 1994 (59 FR 9808), a proposal to list 80 carbamate-related substances as RCRA hazardous wastes and as CERCLA hazardous substances. These 80 substances included: (1) 70 individual carbamates; (2) six carbamate-related waste streams; and (3) four categories of carbamate substances. Subsequently, on February 9, 1995 (60 FR 7824), we finalized the listing of 64 of these 80 substances as RCRA hazardous wastes and CERCLA hazardous substances, deferring action on 12 individual substances and the four categories of carbamate substances

included in the proposed rule. Thus, EPA listed a total of 58 individual carbamates and six carbamate-related hazardous waste streams as RCRA hazardous wastes and CERCLA hazardous substances in the February 9, 1995 final rule. We published corrections to minor errors in these listings in the **Federal Register** on April 17, 1995 (60 FR 19165) and May 12, 1995 (60 FR 25619). We also modified our interpretation of the rule as it affected listings for K156 and K157 hazardous wastes on August 14, 1995 (60 FR 41817).

On November 1, 1996, the Court of Appeals (D.C. Circuit) ruled that EPA failed to follow proper rulemaking procedures in making some of the carbamate listing determinations in the February 9, 1995 rule. *Dithiocarbamate Task Force v. EPA*, 98 F.3d 1394 (D.C.Cir. 1996). As a result, the court vacated the RCRA hazardous waste and CERCLA hazardous substance listings for 24 of the 58 individual carbamates and one of the six carbamate-related waste streams (K160) included in that rule. In addition, the court vacated three other carbamate-related waste streams (K156, K157, and K158) only to the extent that they applied to the chemical 3-iodo-2-propynyl n-butylcarbamate. Under the court decision, the vacated carbamate listings are to be treated as though they had never been in effect.

To clarify the legal status of the vacated listings for the regulated community and the public, EPA, in a June 17, 1997 final rule (62 FR 32974), amended the lists of RCRA hazardous wastes and CERCLA hazardous substances (in 40 CFR parts 261 and 302 respectively) to remove the entries for the 24 individual carbamates and one carbamate-related waste stream (K160) that were vacated by the court, as well as revised the entries for K156, K157, and K158 to indicate that they do not apply to 3-iodo-2-propynyl n-butylcarbamate.

It is important to note, however, that the court's ruling did not change the February 9, 1995 listing of the 34 remaining individual carbamates as RCRA hazardous wastes; those listings remain in effect. Independent of the February 9, 1995 rule, EPA already has added six of these 34 individual carbamates to the CERCLA list of hazardous substances in Table 302.4 of 40 CFR 302.4, and developed adjusted RQs for these substances because of their listing under the Clean Air Act or Clean Water Act.¹ The six substances

and their Chemical Abstracts Service Registry Numbers (CASRN)s are: carbaryl (CASRN 63–25–2); carbofuran (CASRN 1563–66–2); mercaptodimethur (CASRN 2032–65–7); mexacarbate (CASRN 315–18–4); propoxur (CASRN 114–26–1); and triethylamine (CASRN 121–44–8).² Thus, we are not proposing any RQ adjustments for these six substances today.

Upon the effective date of the February 9, 1995 final rule, the 28 remaining individual carbamates and the five carbamate-related hazardous waste streams became hazardous substances under CERCLA section 101(14)(C) and received one-pound statutory RQs. We are proposing today to adjust the statutory one-pound RQs for these 28 substances and five waste streams based on criteria that relate to the possibility of harm from the release of each hazardous substance into the environment. EPA will revise the List of Hazardous Substances and Reportable Quantities (Table 302.4 of 40 CFR 302.4) to reflect these proposed changes and other, conforming proposed changes, if they are finalized. However, until such time as we finalize the adjusted RQs proposed in today's rule, the statutory RQ of one pound remains in effect for these substances.

Finally, eleven of the individual substances with proposed RQ adjustments in today's rule are also EPCRA section 302 EHSs. For the names of these 11 substances, see the proposed revisions to appendices A and B of 40 CFR part 355, included at the end of today's rule. In an August 30, 1989 rule (54 FR 35988), we proposed to adjust the RQs for all the EPCRA EHSs.³ We finalized adjustments to the RQs for all the EHSs, except the 11 included in today's rule (61 FR 20473, May 7, 1996). We are reproposing adjusted RQs for these 11 substances today, for reporting under both CERCLA and EPCRA.

C. Summary of Today's Action

1. What Is the Scope of Today's Rule?

In today's rule, we are proposing to adjust the one-pound statutory RQs for 28 individual carbamates (one of which is adjusted to a final RQ of one-pound) and five carbamate-related waste streams. In addition, EPA is proposing to adjust the one-pound statutory RQ of another hazardous waste stream, K178, which is unrelated to the carbamates

propoxur, in a June 12, 1995 final rule (60 FR 30926).

² Although not a carbamate, triethylamine is used during the production of carbamates.

³ We used the data from this August 30, 1989 proposed rulemaking, as well as more recent data, to support the RQ adjustments proposed for these 11 substances in today's rule.

¹ We adjusted the RQs for five of these six substances in an April 4, 1985 final rule (50 FR 13456), and adjusted the RQ for the other substance,