

not yet developed an RQ for manganese at that time, we did not propose to adjust the RQ for K178 in the September 14, 2000 proposed rule.

Numerous commenters to the proposed rule objected to using manganese as a basis for listing K178 wastes, citing potential adverse impacts to many industries. Although EPA continues to believe that manganese poses significant issues that ultimately should be resolved, the court-ordered schedule for the hazardous waste listings provided no flexibility to address those issues fully before finalizing the listings. For that reason, in the final rule, EPA deferred final action on adding manganese to appendix VII of 40 CFR part 261 as a basis for listing K178 wastes (66 FR 58258; November 20, 2001). The final hazardous waste listing for K178 is based solely on thallium. As a result, we are proposing an RQ of 1,000 pounds for the K178 waste stream, based on the constituent RQ for thallium, the sole hazardous constituent identified for the waste stream.

As stated in the section of the preamble entitled "How and to Whom Do I Submit Comments?," it is important to identify docket control number SFUND-2002-0011 in the subject line on the first page of your correspondence if you are submitting comments on the proposed 1,000-pound RQ for K178.

D. Statutory and Regulatory Reviews

1. 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.

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review. EPA performed an economic analysis, which shows that this proposed rule will result in an annual cost savings of approximately \$90,640 to the regulated community and to Federal, State, and local governments, and does not result in any of the other effects that define a significant regulatory action. In this proposed rule, EPA would raise the RQs for 27 of the 28 individual substances and five of the six waste streams (including K178) from their current statutory one-pound levels. The remaining individual carbamate substance and carbamate-related waste stream will remain subject to an RQ of one pound.

We have estimated that these adjustments from the statutory one-pound RQs will reduce by approximately 176 the number of reportable releases for these hazardous substances each year (see the economic analysis mentioned above). The estimated \$90,640 cost savings reflects only those effects of the RQ adjustments that are readily quantifiable in dollars and are associated with the release notification requirements under CERCLA section 103 and EPCRA section 304, including the associated activities of recordkeeping and notification processing.

A detailed presentation of EPA's methodology, data sources, and computations applied for estimating the number of affected entities (industrial facilities) and economic impacts attributable to today's proposal is provided in the "Economic Impact Analysis" to this proposal.

2. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Information Collection Request (ICR) documents have been prepared by EPA (ICR Nos. 1049.09 and 1395.04). A copy of these ICRs may be obtained from Susan Ambry by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, or by calling (202) 566-1676, and by e-mail at ambry.susan@epamail.epa.gov. A copy also may be downloaded off the Internet at <http://www.epa.gov/icr>.

EPA proposes the following conditions for reporting and recordkeeping: mandatory reporting requirements (CERCLA section 103(a) and EPCRA section 304) serve as triggers for informing the government of a release so that Federal, State, or local personnel can evaluate the need for removal or remedial actions, and undertake any necessary action in a timely fashion.

We estimate that the public reporting burden for collecting information required under CERCLA section 103 averages 4.1 labor hours (*i.e.*, combined managerial, technical, and clerical hours) per response; the reporting burden under EPCRA section 304 averages approximately 5 labor hours per response. This estimate includes the time required to: make a determination whether a release requires a report to the NRC, the State, and local agencies; make the call(s); maintain a log of any calls made to government organizations; and make a follow-up written notification (if required under EPCRA section 304). The average burden estimates of 4.1 and 5 hours are provided only for the purpose of calculating the labor costs associated with the entire release reporting and recordkeeping process under CERCLA and EPCRA. Thus, these burden estimates should not be misinterpreted as reflecting the amount of time an individual has before he or she must call the NRC. Rather, CERCLA and EPCRA require that persons in charge of vessels or facilities immediately notify the NRC, the State, and local agencies of releases that equal or exceed an RQ.

Because we are proposing to raise the RQs for all but two of the substances included in today's rule, we expect the net reporting and recordkeeping burden associated with reporting releases of these substances under CERCLA section 103 to decrease. As noted in the economic impact analysis supporting today's proposed rule (and in Section III.D.2 of this preamble), we estimate that the annual reporting and recordkeeping burdens associated with reports to the NRC will be reduced by approximately 720 hours, and to SERCs and LEPCs by 880 hours.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of