



**Department of Energy**  
Washington, DC 20585  
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OPPT Docket Clerk  
TSCA Document Receipt Office (7407)  
Office of Pollution Prevention and Toxics  
Environmental Protection Agency  
401 M St., SW., Rm. G-099,  
Washington, DC 20460

**Attention: Docket Control Number OPPTS-400109**

Dear Sir or Madam:

*Re: 62 FR 24887, "Addition of Dioxin and Dioxin-Like Compounds; Modification of Polychlorinated Biphenyls (PCBs) Listing; Toxic Chemical Release Reporting; Community Right-to-Know"*

On May 7, 1997, the Environmental Protection Agency (EPA) published a Notice of Proposed Rulemaking proposing to add dioxin and dioxin-like compounds to the list of chemicals reportable under section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA) and proposing a conforming modification of the listing for polychlorinated biphenyls (PCBs). The proposed rule was published in response to a petition filed under section 313(e)(1) of EPCRA. Comments were due to EPA on July 7, 1997; however, EPA extended the comment deadline to September 5, 1997.

This rule has the potential to significantly impact the operation of the RCRA/TSCA-permitted incinerator located on the Department of Energy's Oak Ridge Reservation. In accordance with EPA's guidance on EPCRA section 313 Toxic Chemical Release Inventory (TRI) reporting, formation of dioxins in the incinerator is considered manufacturing. DOE's principal concerns relate to the difficulty of quantifying the formation of dioxins in the incinerator for the purposes of making the required threshold determinations and to the usefulness of the release data that would be reported if it were actually determined that the Reservation exceeded reporting thresholds. As explained in the enclosed comments, based on the limited data currently available, reported annual releases of the subject chemicals from the Oak Ridge incinerator would be zero pounds. However, the Reservation will still have to set up the administrative protocols to track and distinguish the dioxin-like congeners from the total waste stream received at the treatment facility to be able to document our threshold determinations and release estimates. Furthermore, the new "otherwise use" criteria will add the need to distinguish offsite waste from that generated onsite. Thus, the Department recommends that EPA carefully consider the practical aspects of implementing the proposal prior to any formal regulatory action.

The enclosed comments include issues identified by DOE's Oak Ridge Reservation and are submitted for EPA's consideration.

Sincerely,

Raymond F. Pelletier  
Director  
Office of Environmental Policy and Assistance

cc: Daniel R. Bushman, Office of Pollution Prevention and Toxics, EPA

**UNITED STATES DEPARTMENT OF ENERGY  
COMMENTS ON THE PROPOSED RULE TO ADD DIOXIN AND DIOXIN-LIKE  
COMPOUNDS TO TOXIC CHEMICAL RELEASE INVENTORY REPORTING**

**NOTICE OF PROPOSED RULEMAKING  
(62 FR 24887; May 7, 1997)**

1. The Department of Energy (DOE) is concerned that the proposed rule does not discuss, or even acknowledge, the complexity of the dioxin formation processes which are internal to a combustion unit and its associated pollution control equipment. Using current Toxic Chemical Release Inventory (TRI) report preparation guidance, it would be necessary to quantify those internal processes in order to determine whether a "manufacturing" threshold had been exceeded and to subsequently account for partitioning and release of the dioxin-like compounds into downstream wastes or environmental media. While the amount of some chemicals inadvertently manufactured can be determined from a known amount of precursor processed and a known chemical conversion or production rate, the formation of dioxin occurs downstream of the combustion chamber, within the pollution control equipment. The most favored conditions for formation are in the 350-400 degree F temperature range, such as in a baghouse. Unfortunately, the identity and quantity of precursors present at any given point within the pollution control equipment are not known. In addition, both formation and removal of dioxin are taking place. It is therefore impractical to determine whether any manufacturing threshold is exceeded in such a system.

The complexity and uncertainty of the "inadvertent manufacture" of dioxins and furans in combustion and cooling processes make it a highly questionable basis for determining reportability. Such determinations require a technical level of detail beyond that needed to permit and operate a waste incinerator. These issues should be addressed and resolved scientifically by EPA-sponsored research prior to any final regulatory action.

2. DOE does not take issue with EPA's stated belief that the subject chemicals meet the listing criteria of EPCRA section 313 (d)(2)(B). However, the Department believes that adding dioxin and dioxin-like compounds to the list of toxic chemicals will not produce significant reporting from sources such as waste incinerators, regardless of the reporting threshold applied. Test burn data conducted at the RCRA/TSCA-permitted incinerator on the Oak Ridge Reservation, although limited with regard to dioxin formation and release, may provide some useful information relevant to this issue.

As discussed in the comment above, because of the difficulties in determining whether the manufacturing threshold has been exceeded, the following discussion is based on the threshold being zero. Since some quantity of dioxin is formed in the incinerator, meeting the zero threshold is assumed. With a feed rate of 0.127 pounds per hour PCBs, emissions of dioxins were measured at 2.7 E-10 pounds per hour and furan emissions were 4.08 E-9 pounds per hour. Extending these results to a "worst case" 24-hour operation at a maximum permitted feed rate of 450 pounds per hour PCBs gives total annual releases of 0.135 pounds for the proposed chemical category. Using the actual quantity of 106,503 pounds of PCBs fed in 1996 gives an annual total release of dioxins and furans of .0036

pounds. Since both the worst case and actual quantities would be rounded to "0" for the purposes of release reporting, the Department sees little value (and significant expense) in requiring the production of TRI reports each year. DOE suggests that EPA examine this proposed rulemaking in light of the requirement of section 313 (f)(2). EPA and petitioner acknowledge that current reporting thresholds will significantly limit the quantity of releases reported, and a lower threshold is being considered. However, in accordance with section 313 (f)(2), such a revised threshold "...shall obtain reporting on a substantial majority of total releases of the chemical..." As shown above, even using a zero threshold does not result in any reportable releases. EPA should solicit industry-wide estimates of reportable releases at lowered reporting thresholds to determine whether the section 313 (f)(2) requirement would be met before burdening industry with the obligation to calculate manufacturing, processing, use, and release quantities.

DOE also recommends that EPA consider dioxin release data generated as a result of other regulatory programs. The data may indicate that only specific types of generators, such as municipal waste combustors, actually release dioxins in quantities of concern and that hazardous waste incinerators may warrant an exemption.

3. EPA may want to consider that better emissions data can be obtained through the current RCRA permitting process. Permitting under the Hazardous Waste Combustor Rule will require detailed quantification and limitation of dioxin-like compounds emitted at the stack. This reporting is required no matter how small the emissions. The new emission standards were developed with the benefit of health risk analyses, and if there is any remaining potential for health risk to the public, the permit writer possesses RCRA omnibus authority to require a site-specific risk analysis and possibly impose further emissions limitations. While this data is not as convenient to obtain as the TRI data, in our example, there will be no TRI data since the releases are so minute. Current provisions for public participation in the permitting process provide for extensive public awareness and permit exceedence information is available. Thus, the use of EPCRA reporting regulations does not appear warranted for RCRA-permitted combustion units releasing very small quantities of particular chemicals.