

data (499 mg/kg) that define a 5,000-pound RQ.²⁴

The commenter also provided a table showing that ethylene glycol, unlike propylene glycol, is regulated under various environmental statutes. The commenter appears to be using the table to suggest that ethylene glycol is the more toxic of the two substances. Regardless of whether this assertion is correct, listing of ethylene glycol (i.e., under the CAA and CERCLA) indicates only that an RQ must be assigned to this CERCLA hazardous substance, but does not provide the technical data needed to support a particular RQ. The newspaper articles submitted by the commenter do not provide any data that can be used to adjust the RQ for ethylene glycol.

As noted above, all of the data from the studies submitted by the commenter are above the range of acute mammalian toxicity data that result in a 5,000-pound RQ. In fact, EPA has assigned a lower primary criteria RQ based on chronic toxicity (1,000 pounds) than indicated based on mammalian toxicity (5,000 pounds). The Agency then applied the secondary RQ adjustment criteria of BHP, which resulted in an upward adjustment of the 1,000-pound chronic toxicity RQ to 5,000 pounds based on ethylene glycol's susceptibility to biodegradation in the environment.

Thus, EPA does not have sufficient technical justification to establish a one-pound adjusted RQ for ethylene glycol, as requested by the commenter. Nevertheless, the Agency encourages users of ethylene glycol to exercise greater precautions to help prevent accidental poisonings. In addition, EPA would like to clarify that the 5,000-pound final RQ for ethylene glycol should not be interpreted as a determination that smaller releases are safe under all possible release scenarios.

5. K088

To assign an RQ to a hazardous waste stream, the Agency first identifies the substances that are constituents of the waste stream (as listed in 40 CFR part 261, Appendix VII) and determines the RQs for these constituents. The lowest of the constituent RQs becomes the RQ for the waste stream. In the case of spent potliner wastes (K088), the only hazardous constituent is cyanide, which is a CERCLA hazardous substance with a final RQ of 10 pounds (50 FR 13456, April 4, 1985). For this reason, EPA

proposed an RQ of 10 pounds for waste stream K088 in the October 22, 1993 NPRM.

One commenter requested that the proposed 10-pound RQ for K088 be raised to 1,000 pounds based on the cyanide content of this waste stream. The Agency notes, however, that the RQ adjustment methodology does not consider the "content" or concentration of a constituent in the waste stream in determining an RQ for that waste stream. Therefore, EPA is promulgating a 10-pound RQ for K088 in today's final rule.

6. F037 and F038

As noted in Section I.B., the Agency has decided to promulgate final RQs for two hazardous waste streams (F037 and F038) for which RQs were proposed on March 27, 1991 (56 FR 12862). For this reason, EPA is addressing the two comments submitted on this previous proposal in today's final rule.

The two commenters supported EPA's methodology of applying the Agency's "mixture rule" in determining whether CERCLA notification for F037 and F038 is required, but opposed an RQ of one pound for F037 and F038 when constituent quantities of the waste are unknown.

Under the mixture rule, as set forth in 40 CFR 302.6(b), if the quantity of each of the constituents of a waste is known, reporting is required only when an RQ or more of any of the individual hazardous constituents is released. Knowledge that the average quantities of hazardous constituents in several waste streams with the same identification number (e.g., F037) are below their respective hazardous constituent RQs is not a sufficient basis for applying this provision of the mixture rule to all waste streams with that identification number.

The Agency's mixture rule also provides that, if the quantity of one or more of the hazardous constituents is unknown, reporting is required when an RQ or more of the waste itself is released. Thus, if the quantity of one or more of the constituents of F037 or F038 was unknown, reporting would be required when the amount of the waste stream released is one pound or more.

EPA believes that the one-pound adjusted RQs for waste streams F037 and F038 are necessary to fulfill the Agency's CERCLA mandate to protect public health and welfare and the environment from releases of these waste streams that may contain concentrations of hazardous constituents greater than those

considered "typical" by the commenter.²⁵

C. Reporting Requirements for CAA Broad Generic Categories

1. Options for Assigning RQs

Of the broad generic categories of chemicals listed as hazardous air pollutants by the CAA Amendments, five categories—cobalt compounds, glycol ethers, manganese compounds, fine mineral fibers, and polycyclic organic matter—were not previously on the CERCLA list.

In the October 22, 1993 NPRM, EPA requested public comments on the following five options for addressing the CERCLA reporting requirements for these broad categories:

- (1) Assign no RQ level to the CAA broad generic categories;
- (2) Retain a one-pound RQ for these categories (i.e., the lowest RQ EPA assigns to individual hazardous substances);
- (3) Assign an RQ to each category that reflects either the average RQ or the lowest RQ of the substances within each category;
- (4) Assign a 5,000-pound RQ to each category (i.e., the highest RQ EPA assigns to individual hazardous substances); or
- (5) Identify and assign an RQ to certain substances within each category. For the remaining substances within each of the five categories not assigned a specific RQ, assign no RQ, retain a one-pound RQ, assign an average or lowest RQ, or assign a 5,000-pound RQ.

In the preamble to the proposed rule, EPA described a variety of factors that it would consider in choosing an option that protects public health and welfare and the environment. These factors included: the length of time EPA would need to evaluate a large number of compounds individually; the need to have meaningful information reported to the National Response Center (i.e., avoiding either too much or too little information); and the need to avoid unnecessary and costly reporting burdens. After careful evaluation of these factors and consideration of all public comments on the five options, the Agency believes that, as suggested by 34 of the 44 commenters who addressed the options, the most effective balance of these factors would be to implement one of the reporting scenarios described in Option 5. Under

²⁴ For a detailed response to this comment on ethylene glycol, see Response Number II.B.16 in Section II of the responses to comments document for this rulemaking, available for inspection at the CERCLA Docket Office, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.

²⁵ For a detailed discussion of these responses to comments on F037 and F038, see Response Numbers V.1 and V.2 in Section V of the responses to comments document for this rulemaking, available for inspection at the CERCLA Docket Office, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202.