

the October 22, 1993 NPRM to add the applicable footnotes from the CAA Amendments of 1990:

² Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol $R-(OCH_2CH_2)_n-OR'$ where

$n = 1, 2, \text{ or } 3$

$R = \text{alkyl or aryl groups}$

$R' = R, H, \text{ or groups which, when removed, yield glycol ethers with the structure: } R-(OCH_2CH_2)_n-OH.$ ²⁶ Polymers are excluded from the glycol category.

³ Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

⁴ Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100 °C. (42 U.S.C.A. 7412 (b)(1))

EPA believes that such clarification will assist persons in charge of vessels and facilities in determining whether a release contains a substance within these three CAA categories and, thus, a CERCLA hazardous substance subject to liability, response, and abatement provisions under CERCLA.

Some commenters asserted that, even with the inclusion of these footnotes from the CAA Amendments of 1990, the definitions of the glycol ethers, fine mineral fibers, and polycyclic organic matter categories are overly broad. The Agency agrees that, although the categories have been partially limited in definition and scope by the footnotes noted above, the categories remain broad. The only action EPA is taking in this rulemaking is to codify the listings of polycyclic organic matter, glycol ethers, and fine mineral fibers on the regulatory list of hazardous substances in Table 302.4 of 40 CFR 302.4. Any further clarification of the definitions of these categories would more appropriately be addressed under regulations implementing CAA section 112.²⁷

Four commenters concluded that, because of the footnote limiting the definition of the category fine mineral fibers, refractory ceramic fibers (RCF) and other manmade vitreous fibers

(MMVF) are not within the scope of the category and, thus, are not CERCLA hazardous substances. Provided RCF and other MMVF have an average diameter larger than one micrometer, the Agency agrees that these substances would not fall within the fine mineral fibers category under CERCLA and, thus, would not be subject to release reporting and liability requirements. Should RCF or other MMVF, however, have an average diameter of one micrometer or less, these substances would be considered hazardous substances and, therefore, would be subject to CERCLA requirements.

One of these four commenters requested that any CERCLA listing of MMVF, including RCF, apply only to air emissions and should not include releases to water or land. The commenter stated that EPA's CERCLA listing for asbestos appears to provide a precedent for its recommended approach. EPA disagrees with the commenter's recommendation because CERCLA regulates releases of hazardous substances to all environmental media. For example, the listing of asbestos as a CERCLA hazardous substance encompasses all forms of this substance; it is only the reporting requirement that is limited to releases of "friable" forms of asbestos. Nevertheless, releases of "friable" asbestos to environmental media other than air remain subject to CERCLA reporting requirements and any releases of asbestos remain subject to the liability scheme under CERCLA. Similarly, releases of fine mineral fibers that are listed individually in Table 302.4 into any environmental medium are subject to reporting and releases of any fine mineral fibers that fall within the CAA fiber-size limitation (one micrometer or less) to any environmental medium are subject to CERCLA's liability scheme.

Owners and operators of underground storage tanks containing substances that may fall within the five CAA broad generic categories have requested guidance regarding the scope of these categories to assist them in determining whether they are regulated under RCRA Subtitle I. For an underground storage tank to fall under the regulatory jurisdiction of RCRA Subtitle I, the tank must store a "regulated substance." The term regulated substance is defined as petroleum and CERCLA hazardous substances, as defined in CERCLA section 101(14) (excluding RCRA hazardous wastes) (see 40 CFR 280.12). To assist in determining whether particular substances stored are members of the CAA categories and, therefore, are CERCLA hazardous substances subject to the RCRA Subtitle

I underground storage tank regulations, owners and operators may refer to the definitions of these categories in section 112 of the CAA. Appropriate Agency offices will coordinate to develop a process to further assist owners and operators in making this determination.

3. Other Issues

Three commenters requested that EPA identify by Chemical Abstract Service Registry Number (CASRN) the substances within the CAA broad generic categories for which releases must be reported. EPA's choice of Option 5 satisfies this request. Because EPA is assigning no RQ to these five categories, only releases of substances individually listed with an RQ and CASRN in Table 302.4 require CERCLA notification. Therefore, in effect, EPA already has identified by CASRN in Table 302.4 the CERCLA hazardous substances for which releases must be reported.

Another commenter suggested that, because categories may not be identical in potential hazard, different reporting options may be suitable for different categories. The Agency does not agree that implementing differing approaches to reporting requirements for the different broad generic categories is warranted. The main similarity among the categories is that each contains hundreds or thousands of substances with varying toxicities. Based on this similarity, and on a variety of other factors considered by the Agency (see Section II.C.1 for a discussion of these factors), EPA decided that assigning a single RQ to a particular category is inappropriate for all five categories. Thus, for each of the five CAA categories, the Agency is assigning no RQ.

A different commenter suggested that overreporting would result if EPA were to assign an RQ for only a few specific compounds within a category. EPA disagrees with this assertion. In an April 4, 1985 final rule (50 FR 13456), and in several subsequent final rules, the Agency assigned adjusted RQs to specific substances that are listed individually in Table 302.4 and that also fall within the broad generic categories listed under CWA section 307(a). Adjusted RQs for some of these individually listed CWA substances have been in place for nearly 10 years. Based on the number of releases of these individually listed CWA substances that have been reported to the National Response Center, there is no indication that overreporting has resulted in the case of the CWA broad generic categories. Similarly, EPA does not believe that overreporting would occur

²⁶The Agency would like to note that a typographical error has been made in the second mention of the chemical formula for glycol ethers in footnote 2 from the CAA Amendments. This formula appears in the CAA Amendments as "R-(OCH₂CH₂)_n-OH." In Table 302.4 of today's final rule, an additional "2" has been added within the parentheses; thus, the formula in the regulation will read "R-(OCH₂CH₂)_n-OH," rather than the way it appears in the CAA Amendments.

²⁷For detailed responses to specific comments on the scope of these five CAA categories, see Section III.A 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.