not meet the EPCRA section 313(d)(2) criteria.

As explained in Unit III.B. of this preamble, EPA has concluded, based on the Agency's evaluation of sulfuric acid's toxicity and the levels of sulfuric acid exposure to which humans and the environment may be subject, that non-aerosol forms of sulfuric acid do not meet the EPCRA section 313(d)(2) criteria.

The National Environmental Law Center, Onondaga, NY Department of Drainage and Sewage, and EDF state that Publicly Owned Treatment Works (POTWs) workers are endangered by the corrosion and toxicity caused by the large amounts of sulfuric acid released to POTWs. Furthermore, they contend that emergency response personnel are harmed by transportation and plant accidents and that these risks may not be proportional to the ''routine'' releases as evaluated by the Agency in the proposed rule.

EPA agrees that the non-aerosol forms of sulfuric acid are acutely toxic at a low pH. The Agency believes that for chemicals that are acutely toxic, such as concentrated non-aerosol forms of sulfuric acid, the statute precludes consideration of only accidental, non-routine releases when making a determination of whether a chemical meets the criteria of EPCRA section 313(d)(2)(A). Further, the Agency has found that there is no evidence that non-aerosol sulfuric acid releases cause adverse effects to human health under ordinary exposure scenarios.

Several commenters state that this delisting is indefensible from an environmental perspective because sulfuric acid causes acidification, which harms aquatic life and vegetation. The Kentucky Resources Council and the National Environmental Law Center argue that there is insufficient data to state with any certainty whether the releases of non-aerosol forms of sulfuric acid will cause environmental harm. The Environmental Health Coalition adds that sulfuric acid is highly corrosive to wildlife, particularly aquatic life and that it makes no sense to delist a chemical whose toxicity at the time of release is not known and may be very high.

The toxic properties of non-aerosol forms of sulfuric acid are dependent upon concentration and duration of exposure. EPA believes that releases of non-aerosol forms of sulfuric acid in concentrations that are corrosive will almost exclusively exist as a result of accidental releases. Further, EPA believes that the occurrence of these accidental releases that result in adverse environmental effects is limited. As a result, EPA does not believe that non-aerosol forms of sulfuric acid cause an adverse effect on the environment of sufficient seriousness to warrant continued reporting under EPCRA section 313.

The Kentucky Resources Council and the National Environmental Law Center contend that EPA did not provide any information concerning the pH levels typically associated with sulfuric acid releases so that the assertion that all releases of sulfuric acid of a pH less than 6 will not result in environmental harm is unsubstantiated, since the Agency recognizes that at certain low pH levels acute toxicity and other environmental effects occur.

The commenters are correct in their claim that EPA did not provide any pH levels associated with sulfuric acid releases in the proposed rule. However, EPA did provide some pH estimates as a result of modelling from data reported to the Emergency Response Notification System (ERNS) at the March 3, 1993 public meeting. The complete results of this modelling are contained in the document entitled ''Analysis of Accidental Release Data for Non-Aerosol Forms of Sulfuric Acid'' that is available in the docket for this rulemaking (Ref. 2). The model used for estimating these pH levels did not take into account other factors (e.g., buffering) that affect the pH once the release has occurred. Therefore, it is difficult to assess the actual pH in the environment. Furthermore, EPA did not make the assertion that releases of sulfuric acid at a pH less than 6 would not result in environmental harm; however, the Agency did assert in the proposed rule (56 FR 34157) that releases of sulfuric acid solutions *at* or *above* pH 6 are not expected to result in adverse environmental effects. As stated above, EPA recognizes that at low pH non-aerosol releases may cause an adverse effect on the environment. However, based on a review of accidental release reports, EPA believes these incidents are limited and are not of sufficient seriousness to warrant continued reporting under EPCRA section 313.

EDF adds that there are numerous industries that are not regulated under the Clean Water Act's (CWA) pre-treatment program, and thus may not be subject to pH limitations. If facilities discharging directly to surface waters are not regulated for pH, and/or facilities have serious pH excursions, environmental damage can result.

Discharge permits issued under the CWA ordinarily restrict the pH range of these and other discharges. However, EPA did not limit its analyses to CWA restrictions. Although permit restrictions, by themselves, are not an adequate grounds for dismissing possible impacts of releases of non-aerosol forms of sulfuric acid, taken together with other data on sulfuric acid, EPA has not uncovered any information identifying these discharges as reasonably anticipated to cause significant adverse environmental effects of sufficient seriousness to warrant reporting.

BP Chemicals, E.I du Pont de Nemours, Air Products and Chemicals, American Petroleum Institute (API), Adolph Coors Company, Pennzoil Company, and CMA agree with the Agency's position that non-aerosol forms of sulfuric acid cannot reasonably be anticipated to cause adverse effects to human health or the environment under normal exposure scenarios. The Battery Council International concurs with the Agency's finding on non-aerosol forms of sulfuric acid and requests that the Agency re-evaluate the data on aerosol forms of sulfuric acid as well.

As stated in the proposed rule (56 FR 34158), the Agency has determined that aerosol forms of sulfuric acid meet the EPCRA section 313(d)(2) criteria and cannot be delisted under EPCRA section 313(d)(3).

3. *Effect on the Right-to-Know program*. Six commenters (New Jersey Environmental Federation, Northwest Illinois Audubon Society, EDF, MERC, New Jersey Department of Environmental Protection and Energy (NJDEPE), and the Kansas Department of Health and Environment (KDHE)) oppose the delisting of non-aerosol forms of sulfuric acid on the grounds that it defeats the intent of the Right-to-Know program. Kentucky Resources Council expresses concern for the full implementation of the Community Right-to-Know provisions of EPCRA section 313. This commenter adds that there are severe limitations in the existing data bases concerning human health effects from exposure to sulfuric acid. In addition, deletion of non-aerosol forms of sulfuric acid will result in a significant gap in reporting, since ''routine'' permitted releases are not captured under CERCLA and the 1,000 pound reportable quantity will allow significant releases to go unreported. The Environmental Health Coalition believes the delisting of sulfuric acid limits and weakens the effectiveness of TRI as a comprehensive data base of Right-to-Know information.

The National Environmental Law Center states that other sources of data on sulfuric acid spills and releases are no substitute for section 313 reporting due to factors of accessibility,