

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 5, 1995.

**Chuck Clarke,**

*Regional Administrator.*

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## 40 CFR Part 372

OPPTS-400086A; FRL-4952-7]

### Acetone; Toxic Chemical Release Reporting; Community Right-to-Know

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is granting a petition to delete acetone from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). This deletion is based on a determination that acetone meets the delisting criteria of EPCRA section 313(d)(3). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of acetone that occurred during the 1994 calendar year and releases that will occur in the future. This relief applies only to the reporting requirements under section 313 of EPCRA.

**DATES:** This rule is effective June 16, 1995.

**FOR FURTHER INFORMATION CONTACT:** For specific information on this final rule: Maria J. Doa, Petitions Coordinator, Telephone: 202-260-9592. For more information on EPCRA section 313: Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1-800-535-0202. In Virginia and Alaska, 703-412-9877 or Toll free TTD: 1-800-553-7672.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

###### A. Statutory Authority

This final rule is issued under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499).

###### B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of

such chemicals annually. Beginning with the 1991 reporting year, such facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (42 U.S.C. 13106). When enacted, section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added chemicals to and deleted chemicals from the original statutory list. EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. On May 23, 1991 (56 FR 23703), EPA published guidance regarding the recommended content of petitions to delete individual members of section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) criteria for adding and deleting chemicals from the section 313 toxic chemical list (59 FR 61439, November 30, 1994).

##### II. Description of Petition and Regulatory History

On September 24, 1991, EPA received a petition from Eastman Chemical Company and Hoechst Celanese to delete acetone from the EPCRA section 313 list of toxic chemicals. The petitioners contend that acetone should be deleted from the EPCRA section 313 list because it does not meet any of the EPCRA section 313(d)(2) criteria and because acetone's low photochemical reactivity does not present substantial concerns for formation of tropospheric ozone or other air pollutants.

On September 30, 1994, following a review which consisted of a toxicity evaluation and an exposure analysis, EPA proposed to grant the petition to delete acetone from the section 313 list by issuing a proposed rule in the **Federal Register** (59 FR 49888). The proposal to grant the petition was based upon EPA's finding that acetone did not meet the listing criteria found in section 313(d)(2) of EPCRA. It was EPA's belief that there was insufficient evidence to demonstrate that acetone causes or can reasonably be anticipated to cause significant adverse human health or environmental effects.

Until this time, acetone has been considered to be a Volatile Organic Compound (VOC). Emissions of VOCs

are managed under regulations (40 CFR parts 51 and 52) that implement Title I of the Clean Air Act (CAA), as amended, 42 U.S.C. 7401 *et seq.* EPA's definition of VOCs excludes certain listed chemicals that have been determined to be negligibly photochemically reactive (57 FR 3941, February 3, 1992). Elsewhere in this issue of the **Federal Register**, EPA is finalizing its addition of acetone to the list of compounds excluded from the definition of a VOC based on the determination that acetone has a negligible contribution to tropospheric ozone formation.

##### III. Final Rule and Rationale for Delisting

###### A. Comments on the Proposed Deletion of Acetone

The public comment period for the proposed rule closed on November 29, 1994. EPA received 51 comments on the proposed rule to delete acetone. Of these, 29 comments concurred with the proposal, and 22 comments objected to the proposal.

The Chemical Manufacturers Association objected to the statement in the proposed rule that all VOCs "meet the criteria for listing under EPCRA section 313."

In the proposed rule, EPA did not state that all VOCs meet the criteria for listing under EPCRA section 313 solely by virtue of their being so designated. However, EPA reaffirms its position as stated in the proposed rule, that chemicals that clearly fit the definition of VOC under the CAA meet the listing criteria of EPCRA section 313. VOCs contribute to the formation of tropospheric ozone. Ozone can reasonably be anticipated to cause significant adverse effects on human health and the environment, and therefore meets the listing criteria of EPCRA section 313.

Artco Inc. and National Marine Manufacturers Association comment that EPA should further research other chemicals which are not depleting the stratospheric ozone layer and promulgate their removal as well. EPA does not believe that the removal of chemicals from the EPCRA section 313 list is warranted solely on the basis of whether they deplete the stratospheric ozone layer. In making a determination that a chemical should be deleted from the EPCRA section 313 list, EPA examines whether the chemical meets any of the criteria set forth in EPCRA section 313(d)(2). A chemical which is shown not to deplete the stratospheric ozone layer could still meet one of the other criteria, and thus, could not be deleted from the list.