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40 CFR Part 372

[OPPTS-400057A; FRL-4946-3]

Sulfuric Acid; Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is modifying the listing for sulfuric acid on the list of toxic chemicals subject to section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) in response to a petition. Specifically, EPA is deleting non-aerosol forms of sulfuric acid from the list of toxic chemicals subject to section 313. This deletion of non-aerosol forms of sulfuric acid is based on EPA's review of the available data on the health and environmental effects of sulfuric acid. EPA has concluded that these forms of sulfuric acid cannot reasonably be anticipated to cause adverse effects on human health or the environment under normal exposure scenarios. Therefore, these forms of sulfuric acid meet the EPCRA section 313(d)(3) deletion criteria. By promulgating this rule, EPA is relieving facilities of their obligation to report releases of non-aerosol forms of sulfuric acid that occurred during the 1994 reporting year, and releases that will occur in the future.

DATES: This rule is effective June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, 202-260-9592, e-mail:

doa.maria@epamail.epa.gov, for specific information on this final rule, or for more information on EPCRA section 313, the 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 TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action 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 of 1986 (SARA) (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 chemicals to 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 and deleted chemicals from the original statutory list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition has been denied.

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 issued a statement of policy and guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has published a statement clarifying its interpretation of the section 313(d)(2) and (d)(3) criteria for adding and deleting chemicals from the section 313 toxic chemical list (November 30, 1994, 59 FR 61439).

II. Description of Petition and Proposed Action

On December 24, 1990, EPA received a petition from the Environmental Policy Center on behalf of American Cyanamid to qualify the listing of sulfuric acid by requiring release reporting only for sulfuric acid aerosols and deleting other forms of sulfuric acid from the list of chemicals under section 313. The petitioner maintains that non-aerosol forms of sulfuric acid do not meet the statutory criteria for acute, chronic, or environmental effects under normal exposure scenarios.

Following a review of the petition, EPA issued a proposed rule in the **Federal Register** of July 26, 1991 (56 FR 34156), proposing to delete non-aerosol forms of sulfuric acid from the list of toxic chemicals under EPCRA section

313. EPA's proposal was based on its conclusion that these forms of sulfuric acid meet the EPCRA section 313(d)(3) criteria for deletion from the list. EPCRA provides at section 313(d)(3) that "[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph [(d)(2)(A)-(C)]." Specifically, in the proposed rule, EPA concluded preliminarily that there is not sufficient evidence to establish that non-aerosol forms of sulfuric acid cause adverse acute human health effects, chronic human health effects, or environmental toxicity. This preliminary conclusion, which is detailed in the proposed rule, was based on the Agency's review of the petition, as well as other relevant materials included in the docket.

In the **Federal Register** of February 1, 1993 (58 FR 6609), EPA re-opened the comment period for the proposal to modify the listing of sulfuric acid and announced that a public hearing would be held to address petitions to modify the listings for both sulfuric and hydrochloric acids (a petition was received from BASF Corporation, E.I. du Pont de Nemours and Company, Monsanto, and Vulcan Chemical Company on September 11, 1991, to modify the listing of hydrochloric acid by deleting non-aerosol forms). In this notice, EPA requested comment on a number of issues raised by commenters in response to the proposed rule to modify the listing for sulfuric acid that also apply to hydrochloric acid. Specifically, these issues were: (1) The extent to which EPA should rely on existing regulatory controls under other statutes to support a determination that continuous or frequently recurring releases of these acids are unlikely to cause adverse acute human health effects or significant adverse environmental effects; (2) the sufficiency of the evidence required to determine if the non-aerosol forms of these acids meet the EPCRA section 313(d)(2)(A) and (C) criteria; (3) whether EPA should consider accidental release data in making a finding for environmental effects under EPCRA section 313(d)(2)(C); (4) the relevance of release reporting under other statutory provisions to the issue of whether non-aerosol forms of these acids meet the listing criteria; and (5) other reporting options.

The public meeting was held on March 3, 1993. At this meeting, EPA discussed the specific issues described in the February 1, 1993 notice and presented data on accidental and routine releases of sulfuric and hydrochloric acids. Comments were