

§ 30:2014(A) provides, in part, that the Secretary shall act as the primary public trustee of the environment, and shall consider and follow the will and intent of the Louisiana Constitution and Louisiana statutory law in making any determination relative to the granting or denying of permits. This matter is also clarified in LDEQ's revised Program Description, which refers to the review as a 'de novo review of the record.'

In the tenth paragraph under Response to Public Comments, the third sentence is corrected to read "The commentor alleged LDEQ argued that the courts have jurisdiction to review its decisions only when the decision resulted from an LDEQ mandatory adjudicatory hearing."

In the tenth paragraph under Response to Public Comments, the fifth sentence is corrected to read "Thus, none of LDEQ's hazardous waste permitting decisions, with the possible exception of commercial treatment, storage, or disposal facility permits, would be subject to judicial review."

In the tenth paragraph under Response to Public Comments, the sixth sentence is corrected to read "However, EPA considered this issue resolved by the Louisiana Supreme Court in Matter of American Waste and Pollution Control Co., 642 So.2d 1258 (La 1994), where the Court ruled that LDEQ decisions are appealable whether or not they result from a mandatory adjudicatory hearing."

On page 4382, in the twelfth paragraph under Response to Public Comments, the third sentence is corrected to read "In addition, EPA retains Federal enforcement authority under RCRA §§ 3008(h) and 7003."

In the fourteenth paragraph under Response to Public Comments, the second sentence is corrected to read "Even then, EPA will retain the authority to enforce against violators, even in an authorized State, under RCRA §§ 3008(h) and 7003."

In the fifteenth paragraph under Response to Public Comments, the first sentence is corrected to read "EPA has reevaluated its decision to approve this final authorization for revision to the State's hazardous waste program, and revisited all pertinent documentation, including the authorization application with revised Program Description, and several EPA mid-year and end-of-year evaluation reports on LDEQ."

Finally, in the fifteenth paragraph under Response to Public Comments, the third sentence is corrected to read "EPA hereby affirms its decision to approve this final authorization, which was effective January 23, 1995."

Dated: March 29, 1995.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 95-8876 Filed 4-10-95; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 372

[OPPTS-400085A; FRL-4929-3]

RIN 2070-AC00

#### Copper Phthalocyanine Compounds; Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is deleting copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine from the "copper compounds" category on the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). This action is based on EPA's conclusion that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine meet the deletion criteria of EPCRA section 313(d)(3). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine that occurred during the 1994 reporting year, and releases that will occur in the future.

**EFFECTIVE DATE:** This rule is effective April 11, 1995.

**FOR FURTHER INFORMATION CONTACT:** Maria J. Doa, Petitions Coordinator, 202-260-9592, 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 section 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 (PPA) 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, from time to time, added 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 issued a statement of policy and guidance regarding the recommended content of petitions to delete individual members of the section 313 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 list (59 FR 61439; November 30, 1994).

#### II. Description of Petition and Proposed Action

On March 5, 1993, the Agency received a petition from the Color Pigments Manufacturers Association (CPMA) to delete Color Index (C.I.) Pigment Blue 15:1 from the chemical category "copper compounds" subject to EPCRA reporting requirements. C.I. Pigment Blue 15:1 is a mixture of C.I. Pigment Blue 15 (copper phthalocyanine) and copper monochlorophthalocyanine. Because C.I. Pigment Blue 15 had already been deleted from the chemical category "copper compounds" (56 FR 23650; May 23, 1991), the Agency treated this petition as a request to remove copper monochlorophthalocyanine from the chemical category "copper compounds."

Following a review of the petition, EPA issued a proposed rule in the **Federal Register** of June 6, 1994 (59 FR 29252), proposing to delete copper

monochlorophthalocyanine from the category "copper compounds" on the list of toxic chemicals under EPCRA section 313. EPA's proposal was based on its conclusion that copper monochlorophthalocyanine meets the EPCRA section 313(d)(3) criteria for deletion from the list. With respect to deletions, 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 copper monochlorophthalocyanine causes 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 proposed rule, EPA requested comment on the alternative of exempting all copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine from the reporting requirements under the "copper compounds" category on the EPCRA section 313 list. As stated in the

preamble of the proposed rule, EPA has previously reviewed brominated/chlorinated copper phthalocyanine compounds as well as the parent compound, copper phthalocyanine, and believes that its conclusions regarding the toxicity of the intact compound and the availability of soluble copper from these substituted compounds apply to all copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine.

### III. Final Rule and Rationale for Delisting

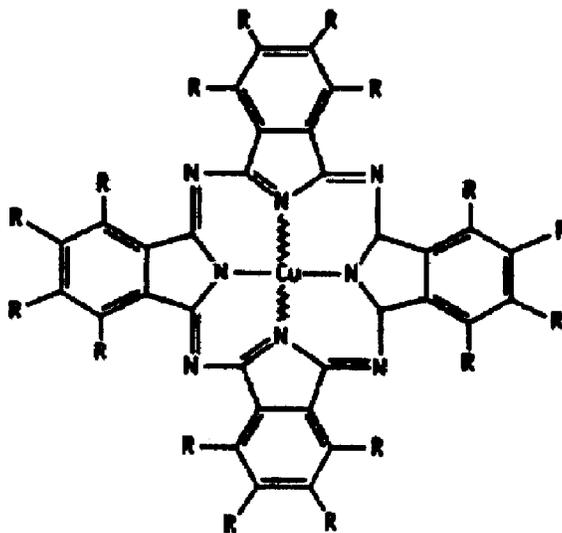
In response to the petition from CPMA, EPA has decided to delete copper monochlorophthalocyanine from the list of chemicals for which reporting is required under section 313 of EPCRA and section 6607 of PPA. Further, the Agency has decided to expand this delisting action to include all copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine. EPA is delisting these chemicals because the Agency has determined that they satisfy the delisting criteria of EPCRA section 313(d)(3).

#### A. Response to Comments

EPA received two comments on the proposed rule, both in support of the deletion of copper

monochlorophthalocyanine. In addition, one of the commenters, CPMA strongly supports EPA's alternative proposal exempting all copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine from the reporting requirements under the "copper compounds" category on the EPCRA section 313 list. The commenter requests that EPA delete all of the possible compounds using the definition of substituted phthalocyanines provided in the proposed rule because these chemicals are abiotically and biotically stable chemicals that will not liberate soluble forms of copper and are not toxic in the intact form.

EPA agrees with the commenters. EPA believes that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine cannot reasonably be anticipated to cause adverse acute human health effects, chronic human health effects, or environmental toxicity. Thus, EPA is exempting these chemicals from the reporting requirements under the "copper compounds" category on the EPCRA section 313 list. Specifically, EPA is deleting all the chemicals that meet the following molecular structure definition:



where R= H and/or Br and/or Cl only.

A guidance document, entitled "Copper Phthalocyanine Compounds Excluded from the Reporting Requirements under the 'Copper Compounds' Category on the EPCRA Section 313 List," that lists all known chemicals that meet this definition and that have Chemical Abstract Service

(CAS) numbers, is available from the Emergency Planning and Community Right-to-Know Hotline. See the unit of this preamble entitled FOR FURTHER INFORMATION CONTACT for the address and telephone number. This guidance document is not intended to be all inclusive and there may be compounds not included in the

guidance document which meet the above formula. Such compounds are also delisted by today's action.

#### B. Rationale for Delisting and Conclusions

After reviewing comments received and other relevant information, EPA has concluded that the assessment set out in

the proposed rule should be affirmed. A more detailed discussion of the rationale for delisting is given in the proposed rule (June 6, 1994; 59 FR 29252). Therefore, this final rule is based on EPA's conclusion that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine cannot reasonably be anticipated to cause adverse acute human health effects, chronic human health effects, or environmental toxicity, because (1) The intact species do not meet the EPCRA section 313(d) criteria and (2) the copper ion from these copper phthalocyanine compounds will not become available. Thus, these chemicals meet the EPCRA section 313(d)(3) criterion for delisting (i.e., they do not meet any of the EPCRA section 313(d)(2) listing criteria). In reaching this conclusion, EPA considered the toxicity of intact copper phthalocyanine compounds and the copper ion as a potential source of toxicity from copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine. Initially, EPA analyzed the availability of copper ion. If the ion is not available, these compounds cannot cause toxicity due to copper ion. EPA has concluded that copper ion cannot reasonably be anticipated to become available from copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine.

The intact copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine can reasonably be anticipated to be acutely toxic only at levels that greatly exceed estimated releases and resultant exposures. Therefore, these copper phthalocyanine compounds cannot reasonably be anticipated to cause "... significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring releases." Thus, EPA has concluded that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine do not meet the toxicity criteria for listing under EPCRA section 313(d)(2)(A).

EPA has also concluded that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine do not meet the toxicity criteria of EPCRA section 313(d)(2)(B) because these copper phthalocyanine compounds cannot reasonably be anticipated to cause cancer, developmental toxicity, reproductive toxicity, neurotoxicity,

gene mutations, or chronic toxicity. These intact copper phthalocyanine compounds cannot reasonably be anticipated to cause such effects, and copper ion will not be available to cause chronic human toxicity.

Finally, EPA has concluded that copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine do not meet the toxicity criteria of EPCRA section 313(d)(2)(C) because these copper phthalocyanine compounds cannot reasonably be anticipated to cause adverse environmental effects. In addition, copper ion will not become available from these copper phthalocyanine compounds and, therefore, will not be available to cause adverse environmental effects.

#### IV. Effective Date

This action becomes effective April 11, 1995. Thus, the last year in which facilities had to file a Toxic Release Inventory (TRI) report for these copper phthalocyanine compounds was 1994, covering releases and other activities that occurred in 1993.

Section 313(d)(4) provides that "[a]ny revision" to the section 313 list of toxic chemicals shall take effect on a delayed basis. EPA interprets this delayed effective date provision to apply only to actions that add chemicals to the section 313 list. For deletions, EPA may, in its discretion, make such actions immediately effective. An immediate effective date is authorized, in these circumstances, under 5 U.S.C. section 553(d)(1) because a deletion from the section 313 list relieves a regulatory restriction.

EPA believes that where the Agency has determined, as it has with these copper phthalocyanine compounds, that a chemical does not satisfy any of the criteria of section 313(d)(2)(A)-(C), no purpose is served by requiring facilities to collect data or file TRI reports for that chemical, or, therefore, by leaving that chemical on the section 313 list for any additional period of time. This construction of section 313(d)(4) is consistent with previous rules deleting chemicals from the section 313 list. For further discussion of the rationale for immediate effective dates for EPCRA section 313 delistings, see 59 FR 33205.

#### V. Rulemaking Record

The record supporting this final rule is contained in docket number OPPTS-400085A. All documents, including an index of the docket, are available in the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office from noon to 4 p.m., Monday through Friday, excluding

legal holidays. TSCA NCIC is located at EPA Headquarters, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

#### VI. Regulatory Assessment Requirements

##### A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action likely to lead to a rule (1) Having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, it has been determined that this final rule is not "significant" and therefore not subject to OMB review.

##### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities would be significantly affected by the final rule. Because the final rule eliminates an existing requirement, it would result in cost savings to facilities, including small entities.

##### C. Paperwork Reduction Act

This final rule does not have any information collection requirements subject to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

#### List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: March 30, 1995.

**Lynn Goldman,**

*Assistant Administrator for Prevention,  
Pesticides and Toxic Substances.*

Therefore, 40 CFR part 372 is amended as follows:

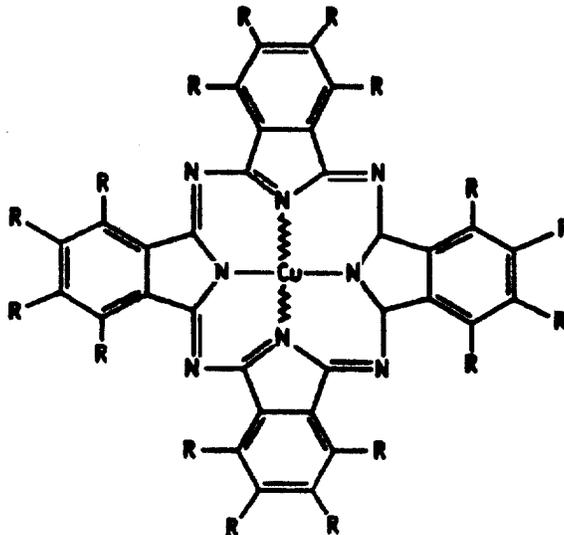
1. The authority citation for part 372 continues to read as follows:

**Authority:** 42 U.S.C. 11023 and 11048.

**§ 372.65 [Amended]**

2. In § 372.65(c) by adding the following language to the copper

compounds listing "except copper phthalocyanine compounds that are substituted with only hydrogen and/or bromine and/or chlorine that meet the following molecular structure definition:



where R = H and/or Br and/or Cl only."

[FR Doc. 95-8874 Filed 4-10-95; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 763

[OPPTS-62121A; FRL-4914-6]

#### Asbestos-Containing Materials in Schools; State Request for Waiver From Requirements; Notice of Final Decision

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

**ACTION:** Notice of final decision on requested waiver.

**SUMMARY:** EPA is issuing a final decision which approves the request of Louisiana for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools.

**ADDRESSES:** A copy of the complete waiver application submitted by the State is available from the TSCA Public Docket Office. A copy is also on file and may be reviewed at the EPA Region 6 office in Dallas, Texas.

TSCA Docket Receipt (7407), Office of Pollution Prevention and Toxics, Rm. NE-B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

EPA, Region 6 (6T-PT), 1445 Ross Avenue, Dallas, TX 75202-2733.

#### FOR FURTHER INFORMATION CONTACT:

James B. Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This notice is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act 1986 (AHERA), Pub. L. 99519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the **Federal Register** of October 30, 1987 (52 FR 41846), the Asbestos-Containing Materials in Schools Rule (the Schools Rule, 40 CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the

State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. Section 763.98 (40 CFR 763.98) sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver provisions.

EPA issued a notice in the **Federal Register** of February 18, 1993 (58 FR 8926), which announced the receipt of a waiver request from the State of Louisiana, and solicited comments from the public. The notice also discussed the program elements of the State program, listed differences between the State program and the AHERA requirements, and provided EPA's preliminary response to the State on the differences identified.

No comments were received during the 60-day comment period. No request for a public hearing was received. Consequently, no hearing was held.

EPA is required to issue a notice in the **Federal Register** announcing its