Kentucky has informed EPA that it intends to accept delegation of section 112 standards through adoption by reference. The details of the Commonwealth's use of these delegation mechanisms are set forth in a letter dated April 14, 1995, submitted by Kentucky as a title V program addendum.

d. Commitment to implement Title IV of the Act. The Commonwealth of Kentucky developed acid rain permit regulations as Rule 401 KAR 50:072, which was submitted to EPA on April 19, 1995, as part of the operating permits program. The Commonwealth also submitted standard acid rain permit application forms which will be revised as updated forms are provided by the EPA. These rules and permit application forms meet the requirements of the acid rain program.

B. Proposed Actions

1. Source Category-Limited Interim Approval

The EPA is proposing to grant SCL interim approval to the operating permit program submitted by Kentucky on December 27, 1993, and as supplemented on November 15, 1994, April 14, 1995, May 3, 1995, and May 22, 1995. If this approval is promulgated, the State must make the following changes to receive full approval: (1) Revise the definitions of ''emissions unit'' and ''stationary source'' to include emissions of any pollutant listed under section 112(b) of the Act; (2) revise the definition of ''regulated air pollutant'' to include any pollutant subject to any requirements established under section 112 of the Act; and (3) revise Rule 401 KAR 50:035 section 5(2)(a) to provide for EPA review consistent with 40 CFR 70.8. in order to allow for requirements from preconstruction review permits to be incorporated into part 70 permits via administrative amendments.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the Commonwealth is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the Commonwealth. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

2. Program for Straight Delegation of Section 112 Standards

As discussed above in section II.A.4.c, EPA is proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the Commonwealth's program for receiving delegation of future section 112 standards that are unchanged from Federal standards as promulgated. Additionally, EPA is proposing to delegate existing standards and programs under 40 CFR parts 61 and 63 for part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the Commonwealth's submittal and other information relied upon for the proposed interim approval are contained in docket number KY–95–01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by October 5, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 22, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–21938 Filed 9–1–95; 8:45 am]

BILLING CODE 6560–50–P

---

40 CFR Part 372

[OPPTS–400096; FRL–4970–5]

Diethyl Phthalate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is granting a petition by proposing to delete diethyl phthalate (DEP) from the list of chemicals subject to reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). Specifically, EPA is proposing to delete DEP because the Agency has preliminarily concluded that it meets the deletion criteria of EPCRA section 313(d)(3).

DATES: Written comments on this proposed rule must be received by EPA on or before November 6, 1995.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Nonconfidential

Information Center (NCIC), (7407), Environmental Protection Agency, Rm. NE–B607, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number for this proposal, OPPTS–400096.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–400096. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI. of this document.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, 202–260–9592, e-mail: doa.maria@epamail.epa.gov, for specific information on this proposed 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 taken 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). Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. DEP was included in the initial list of chemicals and 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 (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 General Information

On February 7, 1995, the Fragrance Materials Association petitioned the Agency to delete DEP (Chemical Abstract Service (CAS) No. 84–66–2) from the EPCRA section 313 list of toxic chemicals. The petitioner contends that DEP, which is mainly used as a plasticizer, should be deleted from the EPCRA section 313 list because it does not meet any of the EPCRA section 313(d)(2) criteria.

DEP is listed on several environmental statutory lists other than EPCRA. It is on the list of hazardous substances (40 CFR 302.4) under section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601–9675) with a reportable quantity of 1,000 pounds and is listed under section 3001 of the Resource Conservation and Recovery Act (42 U.S.C. 6921). In addition, DEP is a priority water pollutant under section 307(a) of the Clean Water Act (33 U.S.C. 1317).

III. EPA's Technical Review of DEP

The technical review of the petition to delete DEP includes an analysis of production, release, health and environmental effects, and exposure and fate (Refs. 1, 2, 3, 4, and 5).

A. Chemistry.

DEP has low volatility (boiling point: 295 °C; vapor pressure: 0.00165 torr), and high water solubility (1 gram/liter (g/L)).

B. Toxicological Evaluation

1. *Absorption and metabolism*. There is evidence from a toxicity study that DEP is absorbed from the gastrointestinal tract. There are no data on lung absorption of DEP following inhalation. A dermal absorption study using rats indicated that 50 percent of the dermal dose was absorbed in 7 days. *In vitro* studies indicate that the major metabolite of DEP is the monoester.

2. *Acute toxicity*. DEP has low acute toxicity. The oral median lethal dose (LD_{50}) in rabbits is 1 gram/kilogram (g/kg); intraperitoneal LD_{50} values in rats and mice are greater than 5.6 and 2.8 g/kg, respectively.

3. *Carcinogenicity*. There is insufficient evidence to reasonably anticipate that DEP would cause cancer in humans. In a National Toxicology Program dermal bioassay, there was no evidence of carcinogenicity in male and female rats. However, there were increased incidences of hepatocellular adenomas (benign tumors) in male and female mice. These findings were considered equivocal because: (1) The incidence of hepatocellular neoplasms in control and dosed males was within the historical range; and (2) in the females, there was no clear dose-response relationship. In an initiation-promotion study, there was no evidence of initiating activity of DEP in male mice.

4. *Mutagenicity*. The overall weight of evidence from several mutagenicity assays indicates that DEP is not of concern for mutagenicity. DEP did not induce gene mutations in prokaryotes or chromosome mutations in mammalian cells in culture. The only positive mutagenicity data are for DNA effects (sister chromatid exchanges) in mammalian cells in culture.

5. *Systemic toxicity*. Based on subchronic and chronic feeding studies in rats, DEP has low systemic toxicity. Body weight loss was the primary effect in all available studies and it was seen only at the highest dose, 5 percent of the diet or approximately 3,160 milligrams/kilogram/day (mg/kg/day). The no-observed-adverse-effect-level (NOAEL) was 750 mg/kg/day.

6. *Developmental/reproductive toxicity*. The available animal data indicate that DEP does cause developmental effects, but only at high doses (greater than 3,000 mg/kg/day). The reproductive effects seen in

animals, also at high doses, were not biologically significant.

Supernumerary ribs were noted in the offspring of rats fed DEP in the diet at 5 percent concentration (about 3,210 mg/kg/day). The NOAEL for developmental toxicity was 2.5 percent of the diet (about 1,910 mg/kg/day), and the NOAEL for maternal toxicity was about 0.25 percent of the diet (about 200 mg/kg/day). In another study, supernumerary ribs and other skeletal abnormalities were noted in rats administered 568, 1,136, and 1,793 mg/kg of DEP intraperitoneally on gestation days 5, 10, and 15. This study is limited, however, because the animals were not dosed throughout gestation.

In a reproduction study in mice, dietary administration of DEP at 2.5 percent of the diet (approximately 3,750 mg/kg/day) produced decreases in sperm concentration and body weight, and increases in prostate weight in the F_1 generation. There was no biologically significant impairment of fertility or development after fertilization. Therefore, the highest dose tested, 2.5 percent of the diet, was considered as the NOAEL for reproductive effects.

7. *Neurotoxicity.* There are no data to support a concern for neurotoxicity.

8. *Environmental effects.* DEP does not pose a significant environmental hazard. It exhibits low toxicity to aquatic organisms and it is not likely to bioconcentrate. The fish 96–hr median lethal concentration (LC_{50}) values range from 12 to 110 milligrams/liter (mg/l). Daphnid 48-hr LC_{50} values range from 50 to 90 mg/l, and algae 96–hr median effective concentration (EC_{50}) values range from 30 to 86 mg/l. The bioconcentration factor (BCF) in fish is 117, which indicates low bioconcentration potential. In the environment, DEP will undergo hydrolysis to the monoester, which is less toxic than DEP to aquatic organisms.

C. Production, Use and Release

DEP is produced by refluxing one equivalent of phthalic anhydride with a greater than two-fold excess of ethanol in the presence of one percent of concentrated sulfuric acid. The U. S. production volume in 1989 was 11 million kilograms (24.2 million pounds) with an estimated annual import volume of 100,000 kilograms (220,000 pounds). The primary use of DEP (90 percent consumption) is as a plasticizer for cellulose-based products used in making recording tapes, photographic films, food wrap, and molded and extruded plastic articles. It is also used as a carrier or fixative in cosmetics in concentrations ranging from 0.1 percent to 50 percent. In addition, DEP is also used in solvents, varnishes, dyes, coating agents for foodstuffs, and insect repellents.

The Toxic Release Inventory (TRI) data indicate that during 1993 a total of 159,386 pounds of DEP were released to the environment. Of that total, 93,471 pounds were released to air, 260 pounds were released to water, and 505 pounds were released to land. In addition, a total of 851,894 pounds of DEP were transferred to various off-site locations. Of that total, 302,115 pounds were transferred to public owned treatment works (POTWs) prior to being discharged to surface waters.

D. Exposure and Fate Analysis

The two principal and relevant fate processes for DEP in the environment are reaction with photochemically-generated hydroxyl radicals in the atmosphere and aerobic biodegradation in soil and water. A half-life of 22.2 hours at 25 °C was estimated from reaction of DEP vapor with photochemically-generated hydroxyl radicals. When DEP is aerobically biodegraded in a semicontinuous activated sludge system (SCAS), greater than 95 percent was degraded in 24 hours. In a screening test, a half-life of 2.2 days was measured when DEP is incubated with a mixed microbial population. Removal of DEP by anaerobic biodegradation, oxidation, chemical hydrolysis, and direct photolysis, as well as, from volatilization and bioaccumulation in aquatic organisms should not be significant.

Because DEP has low chronic mammalian toxicity, the Agency conducted an exposure assessment for chronic human exposure. Nationwide releases to air and surface water retrieved from the TRI data base were modeled using TRIAIR and TRIWATER models.

Based on 1992 TRI data, the highest estimated DEP air concentration to which people are expected to be exposed is 3.5 micrograms/cubic meter (ug/m^3); about 129 people live in the area in which this concentration is expected to occur. The Lifetime Average Daily Potential Dose ($LADD_{pot}$) calculated based on the estimated atmospheric concentrations is 0.001 mg/kg/day. Based on 1992 data, the highest estimated DEP acute concentration at five drinking water utility intakes under low flow conditions is about 2 parts per billion (ppb); this results in a $LADD_{pot}$ of about 4.5-6.5 x 10^{-5} mg/kg/day; about 40,160 people are potentially exposed at this level. The highest estimated DEP chronic concentration at five drinking water utility intakes under medium flow conditions is about 0.3 ppb; this results in a $LADD_{pot}$ of about 1 x 10^{-5} mg/kg/day; about 40,160 people are potentially exposed at this level.

The above estimated doses are well below the Agency's reference dose (RfD) of 0.8 mg/kg/day that is considered significantly protective of human health. This observation further suggests that the exposure estimates are not likely to result in adverse health risks in humans from acute or chronic exposure to DEP from the atmosphere or from drinking water as a result of continuous or frequently, recurring releases from facility sites.

E. Summary of EPA's Assessment

EPA's toxicological evaluation of the current data on DEP indicates that it exhibits acute, systemic, and developmental and reproductive toxicities only at relatively high doses. Furthermore, DEP exhibits low toxicity to aquatic organisms, and is not likely to bioconcentrate. Releases of DEP will not result in exposures of concern for adverse human health risks. Based on the total weight of available data, DEP cannot reasonably be anticipated to cause a significant adverse effect on human health or the environment.

F. Rationale for Granting

EPA is granting the petition by proposing to delete DEP from the EPCRA section 313 list. Based on current data, EPA preliminarily concludes that DEP does not meet the toxicity criteria of EPCRA section 313(d)(2)(A) because DEP exhibits acute oral toxicity only at levels that greatly exceed estimated resultant exposures. Specifically, DEP 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.''

EPA has preliminarily concluded that there is not sufficient evidence to establish that DEP meets the criterion of EPCRA section 313(d)(2)(B), because it cannot reasonably be anticipated to cause teratogenic effects, immunotoxicity, neurotoxicity, or liver or kidney toxicity, and it cannot be anticipated to cause reproductive or developmental toxicity except at relatively high dose levels. EPA believes that DEP has low chronic toxicity and accordingly has considered exposure factors. As stated above, EPA believes that anticipated exposure concentrations of DEP are not expected to result in significant adverse effects. Therefore, EPA has preliminarily

concluded that DEP does not meet the EPCRA section 313(d)(2)(B) listing criterion.

EPA has also preliminarily determined that DEP does not meet the toxicity criterion of EPCRA section 313(d)(2)(C) because it cannot reasonably be anticipated to cause adverse effects on the environment of sufficient seriousness to warrant continued reporting.

Thus, in accordance with EPCRA section 313(d)(3), EPA is proposing to delete DEP from the section 313 list of toxic chemicals.

IV. Request for Public Comment

EPA requests public comment on this proposal to delete DEP from the list of chemicals subject to EPCRA section 313. Comments should be submitted to the address listed under the ADDRESSES unit. All comments must be received by EPA on or before [Insert date 60 days after date of publication in the **Federal Register**].

V. Rulemaking Record

A record has been established for this proposal under docket number ''OPPTS–400096'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this proposal, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulmaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

VI. References

(1) USEPA, OPPTS. 1995. Chemistry Report on Diethyl Phthalate by Stephen C. DeVito, Industrial Chemistry Branch, Economics, Exposure, and Technology Division. Office of Pollution Prevention and Toxics. (May 8, 1995).

(2) USEPA, OPPTS. 1995. Economic Analysis of the Proposed Deletion of Diethyl Phthalate from the EPCRA Section 313 List of Toxic Chemicals by Fred Arnold, Regulatory Impacts Branch, Economics, Exposure, and Technology Division, Office of Pollution Prevention and Toxics. (April 5, 1995).

(3) USEPA, OPPTS. 1995. Memorandum from Lorraine M. Randecker, Hazard Integrator, Chemical Screening and Risk Assessment Division, with attachments, re: Petition to Delist Diethyl Phthalate. (April 24, 1995).

(4) USEPA, OPPTS. 1995. Engineering Report for the Proposed Delisting of Diethyl Phthalate from the EPCRA Section 313 List of Toxic Chemicals by Monica Sweet, Chemical Engineering Branch, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics. (April 3, 1995).

(5) USEPA, OPPTS. 1995. Memorandum from Andrew Mamantov, Exposure Assessment Branch, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics, with attachments, re: Diethyl Phthalate (DEP) Delisting Petition Fate and Exposure Assessment. (June 15, 1995).

VII. 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. Pursuant to the terms of this Executive Order, it has been determined that this proposed rule is not ''significant'' and therefore not subject to OMB review.

EPA estimated that the delisting of DEP from the EPCRA section 313 toxic chemical list would result in a total annual cost savings to industry of $124,200. The cost savings to EPA are estimated at $3,000.

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 proposed rule. Because this proposed rule eliminates an existing requirement, it would result in cost savings to facilities, including small entities.

C. Paperwork Reduction Act

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

D. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this regulatory action on State, local, or tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local, or tribal governments, or by anyone in the private sector. The costs associated with this action are described in the Executive Order 12866 unit above.

List of Subjects in 40 CFR Part 372

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

Dated: August 27, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 372 be amended to read as follows:

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

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by removing the entire entry for diethyl phthalate under paragraph (a) and removing the entire CAS No. entry for 86–66–2 under paragraph (b).

[FR Doc. 95–21943 Filed 9–1–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7149]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the