

submitted a petition to delete MEK (CAS No. 78-93-3) from the HAP list in section 112(b)(1), 42 U.S.C., 7412(b)(1). Following the receipt of the petition, we conducted a preliminary evaluation to determine whether the petition was complete according to Agency criteria. To be deemed complete, a petition must consider all available health and environmental effects data. A petition must also provide comprehensive emissions data, including peak and annual average emissions for each source or for a representative selection of sources, and must estimate the resulting exposures of people living in the vicinity of the sources. In addition, a petition must address the environmental impacts associated with emissions to the ambient air and impacts associated with the subsequent cross-media transport of those emissions. We determined the petition to delete MEK to be complete and published a notice of its receipt in the **Federal Register** on June 23, 1999, at 64 FR 33453 and requested information to assist us in technically reviewing the petition in addition to other comments.

We received 10 submissions in response to our request for comment and information which would aid our technical review of the petition. We responded to substantive comments in our technical review of the petition.

II. Criteria for Delisting

Section 112(b)(2) of the CAA requires us to make periodic revisions to the initial list of HAP set forth in section 112(b)(1) and outlines criteria to be applied in deciding whether to add or delete particular substances. Section 112(b)(2) identifies pollutants that should be listed as:

* * * pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise * * *.

Section 112(b)(3) establishes general requirements for petitioning the Agency to modify the HAP list by adding or deleting a substance. Although the Administrator may add or delete a substance on his or her own initiative, the burden is on a petitioner to include sufficient information to support the requested addition or deletion under the substantive criteria set forth in section 112(b)(3)(B) and (C).

The Administrator must either grant or deny a petition to delist a HAP within 18 months of receipt of a complete petition. If the Administrator decides to deny a petition, the Agency publishes a written explanation of the basis for denial in the **Federal Register**. A decision to deny a petition is final Agency action subject to review. If the Administrator decides to grant a petition, the Agency publishes a written explanation of the Administrator's decision, along with a proposed rule to add or delete the substance. The proposed rule is open to public comment and public hearing, and all additional substantive information received is considered prior to the issuance of a final rule.

To delete a substance from the HAP list, section 112(b)(3)(C) provides that the Administrator must determine that:

* * * there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation of deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

If the Administrator decides to grant a petition, the Agency publishes a written explanation on the Administrator's decision, along with a proposed rule to add or delete the substance. The proposed rule is open to public comment and public hearing. We evaluate all substantive information received during public comment prior to taking any final action related to a proposed rule.

We do not interpret section 112(b)(3)(C) to require absolute certainty that a pollutant will not cause adverse effects on human health or the environment before it may be deleted from the list. The use of the terms "adequate" and "reasonably" indicate that the Agency must weigh the potential uncertainties and likely significance. Impact of the uncertainties concerning the risks of adverse health or environmental effects may be mitigated if we can determine that projected exposures are sufficiently low to provide reasonable assurance that such adverse effects will not occur. Similarly, impacts of uncertainties due to the magnitude of projected exposures may be mitigated if we can determine that the levels which might cause adverse health or environmental effects are sufficiently high to provide reasonable assurance that exposures will not reach harmful levels. However, the burden remains on a petitioner to demonstrate that the available data support an affirmative determination that emissions of a substance may not be reasonably

anticipated to result in adverse effects on human health or the environment (that is, EPA will not remove a substance from the list of HAP based merely on the inability to conclude that emissions of the substance will cause adverse effects on human health or the environment). As a part of the requisite demonstration, a petitioner must resolve any critical uncertainties associated with missing information. We will not grant a petition to delete a substance if there are major uncertainties that need to be addressed before we would have sufficient information to make the requisite determination.

III. Summary of the Petition

A. Background

The petition to delist MEK is presented in the form of a risk assessment that considers multiple routes of exposure and evaluates the likelihood and severity of adverse effects to human health and the environment arising from exposures to ambient levels of MEK. The petition presents a characterization of the sources and releases of MEK, estimates exposures, identifies the potential hazard and the dose-response relationship of MEK, and characterizes the risk from a reasonable worst-case lifetime exposure to MEK, and to worst-case short-term (24 hour) exposure to MEK. This section of today's proposed action presents an overview of the petition to delist MEK, and the petitioner's conclusions based on that information. Please consult the docket for more detail about the petition or EPA's evaluation of the petition.

The petition to delist MEK presents background information on MEK, including chemical and physical properties data and production and use data. The petitioner used the 1994 Toxic Release Inventory (TRI) as the basis of an emissions inventory intended to quantify annual emissions of MEK, to identify and locate emissions sources, and to acquire some facility-specific emissions information. The 1994 TRI shows that there are over 2,000 sources with reported emissions of MEK. The petition states that over 85 percent of these facilities (approximately 1,700) emit 25 tons per year (tpy) or less. The petition also states that approximately 800 facilities emit between 10 and 200 tpy, and 27 facilities emit 200 tpy or more. In addition to using the 1994 TRI, the petitioner queried a subset of individual sources to obtain site-specific source, release, and facility information for the purpose of conducting more detailed risk assessments.