



BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2013-0433; FRL-10012-79]

### **Cuprous Iodide; Draft Ecological Risk Assessment for Federally Listed Species; Notice of Availability**

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is announcing the availability of and soliciting public comment on EPA's draft Ecological Risk Assessment for Federally Listed Species for the antimicrobial pesticide, cuprous iodide.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2013-0433, through the *Federal eRulemaking Portal* at <http://www.regulations.gov>.

Please follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline Hardy, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania

Ave. NW, Washington, DC 20460-0001; telephone number: (703) 308-6416; email address: *hardy.jacqueline@epa.gov*.

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including those with environmental and human health interests; the chemical industry, pesticide users; and members of the public interested in the sale, distribution, or use of articles that may be fabricated with this pesticide and/or potential impacts of this pesticide's use on threatened or endangered (listed) species and designated critical habitats. Since others may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FURTHER INFORMATION CONTACT**.

#### *B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments,

see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets#tips>.

## **II. What Action is the Agency Taking?**

### *A. Authority*

The Endangered Species Act (ESA) requires federal agencies, such as EPA, to ensure that their actions are not likely to jeopardize the continued existence of species listed as threatened or endangered under the ESA or destroy or adversely modify the designated critical habitat of such species. The registration of a pesticide containing a new active ingredient under the Federal Insecticide, Fungicide, and Rodenticide Action (FIFRA) constitutes an EPA “action” under the ESA. If EPA determines a pesticide may affect a listed species or its designated critical habitat, EPA must initiate consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service (collectively referred to as the Service), as appropriate.

### *B. Background*

Cupron Cuprous Iodide Masterbatch (EPA Reg. No. 84542-9) containing the new active ingredient, cuprous iodide, was registered October 6, 2015. Cuprous Iodide Masterbatch is a material preservative that is incorporated into manufactured products to suppress the growth of algae, mold, mildew, fungi, and bacteria which may cause unpleasant odors, discoloration, staining, deterioration, or corrosion. This product is mixed with a compatible polymer used to create fibers, plastics, and films. Cuprous iodide is incorporated at a rate not exceed 5.0% by weight and is evenly distributed throughout the final article. The Cupron Cuprous Iodide Masterbatch label allows a myriad of uses including but not limited to bedding, apparel, outerwear, undergarments, hosiery, carpets, plastic composites, floor coverings, carpet, draperies, upholstery, plumbing supplies, tiles, wallboard, shoes, sails, and awnings. As the cuprous iodide is expected to be tightly bound within the polymer matrices, environmental

exposure to cuprous iodide from these uses is extremely limited and is not reasonably expected to reach concentrations high enough to cause any discernible effects.

On March 4, 2019, the Center of Biological Diversity (CBD) filed a lawsuit against the Agency alleging that EPA violated the ESA by failing to ensure that the registration of Cupron Cuprous Iodide Masterbatch would not jeopardize any listed species or destroy or modify their critical habitat, and by failing to consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as required under the ESA.

The primary pathway by which cuprous iodide would be expected to be released to the aquatic environment is from down-the-drain discharges by leaching during in-service use of manufactured products via fabric washing at institutional facilities, commercial establishments, and residences. In order to facilitate settlement of the lawsuit, Cupron submitted a label amendment removing from its label approved uses in articles that could be frequently washed such as bedding, mattress covers, apparel, outerwear, undergarments, and hosiery.

The Agency conducted an ecological risk assessment for federally listed species for cuprous iodide for the subset of uses that would remain on the revised label. The proposed label includes uses for fibers (fiberfill for quilts and pillows, vacuum cleaner bags, sleeping bags, brush bristles, air and dust filters, book covers, carpets, rugs, mats, carpet underlay, carpet backing, broadloom and tile carpeting, conveyor belts that do not come in contact with any type of food, automotive and truck upholstery, automotive and truck carpeting and interior liners, shoes, gloves and helmets, sails, ropes, canvas, ducking, awnings, umbrellas) and for plastics and films (automotive and vehicular parts, brush handles, building materials and components (excluding shingles), wood composites, non-food contact plastic composites, conveyor belts that do not come in contact with any type of food, floor covering, flooring, footwear including boots,

furniture, gaskets, glazing for cement tile and for toilets, indoor furniture, insulation for wire and cable, insulators, kitchen and bathroom hardware, plumbing supplies and fixtures including sinks, indoor sports equipment, tape, tiles, tubing, vacuum cleaner bags, wallboard, walls, waste containers, personal hygiene devices such as combs, brushes, and hairclips). The Cupron Cuprous Iodide Masterbatch label would specify that it may not be used as a coating, film, or laminate on any other product than those listed on the label.

The draft ecological risk assessment for federally listed species for cuprous iodide shows that the potential exposures to terrestrial and aquatic organisms (including listed species) from cuprous iodide are not reasonably expected to occur at levels that would result in a discernible effect from the uses that would be allowed on the revised Cupron Cuprous Iodide Masterbatch label. The Agency proposes to make a No Effects (NE) determination for all Federally-listed-threatened/endangered species and critical habitats for the narrowed set of uses of cuprous iodide that would be allowed under the proposed label amendments.

### *C. Public comments sought*

After reviewing public comments on the draft ecological risk assessment for federally listed species for cuprous iodide, EPA will issue, if necessary, a revised ecological risk assessment and a response to comments document before amending the registration. If EPA determines that this set of pesticide uses may affect listed species and/or their designated critical habitat, EPA will initiate consultation with the Services, as appropriate.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: August 7, 2020.

**Alexandra Dapolito Dunn,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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