

in accordance with good agricultural practices.

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40 CFR Part 721

[OPPTS-50615B; FRL-4916-4]

RIN 2070-AB27

Organotin Lithium Compound; Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described generically as an organotin lithium compound which is the subject of premanufacture notice (PMN) P-93-1119. This proposal would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: Written comments must be received by EPA by July 7, 1995.

ADDRESSES: Each comment must bear the docket control number OPPTS-50615B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-G99, 401 M St., SW., Washington, DC 20460. All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing confidential business information (CBI) must also be submitted. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. See Unit VII. of this document for further information.

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-50615B. 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 VIII. of this document.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: This proposed SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of P-93-1119 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of sections 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a significant new use notice (SNUN), EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUN. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or

final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354), and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUNs to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance which was the subject of PMN P-93-1119 in the **Federal Register** of May 27, 1994 (59 FR 27474). EPA received adverse comments following publication for this chemical substance. Therefore, as required by 40 CFR 721.160, the final SNUR for P-93-1119 is being revoked elsewhere in this issue of the **Federal Register** and this proposed rule on the substance is being issued.

The comments were submitted by the PMN submitter's customer for this substance. The commenter proposed changing the requirements of the SNUR. Based on potential toxicity to the environment, the direct final SNUR required notification if the substance was predictably or purposefully released to surface waters. The commenter proposed a SNUR requiring notification if the substance was predictably or purposefully released to surface waters above a concentration of 1 ppb (part per billion) according to the formula in 40 CFR 721.90.

The direct final SNUR was based on the information in the PMN that manufacture and use of the PMN substance as a catalyst would not result in releases to surface waters. The commenter demonstrated through a pilot study and analytical measurements that the substance would be released to surface waters. The commenter also demonstrated that treatment at that particular plant site would result in surface water concentrations below EPA's original 1 ppb concern concentration. Because the data demonstrate that releases to water could occur but would not exceed the 1 ppb concern level at the intended site of

manufacture, EPA is proposing this SNUR with a water trigger of 1 ppb as a significant new use.

EPA is not soliciting and will not respond in this proposal to comments on any of the other SNURs that were published in the May 27, 1994 **Federal Register** because those rules either became final, effective July 25, 1994, or EPA is addressing written comments concerning those rules in a separate rulemaking. Except for the use of the 1 ppb level, the supporting rationale and background to this proposal are more fully set out in the preamble to the direct final SNUR for this substance and in the preamble to EPA's first direct final SNURs published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult those preambles for further information on the objectives, rationale, and procedures for the proposal and on the basis for significant new use designations including provisions for developing test data.

IV. Substance Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substance under 40 CFR part 721.

PMN Number P-93-1119

Chemical name: (generic) Organotin lithium compound.

CAS number: Not available.

Toxicity concern: The substance will be used as a catalyst. Test data on organotin pesticides indicate that the substance may cause toxicity to aquatic organisms. Based on these data, EPA expects toxicity to aquatic organisms to occur at a concentration of 1 ppb of the substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters above a concentration of 1 ppb. EPA has determined that manufacture, processing, and use of the substance for uses other than as a catalyst could result in releases to surface waters above 1 ppb. Based on this information, the substance meets the concern criteria at § 721.170(b)(4)(iii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal acute toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.9668.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on May 27, 1994, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUN requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after May 27, 1994, would have to cease any such activity before the effective date of the rule. To resume their activities, such persons would have to comply with all applicable SNUN requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUN requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in this proposed rule. The Agency's complete economic analysis is available

in the public record for this proposed rule (OPPTS-50615B).

VII. Comments Containing Confidential Business Information

Any person who submits comments containing information claimed as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file without further notice to the submitter. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

VIII. Rulemaking Record

A record has been established for this rulemaking under docket number OPPTS-50615B (including comments and data submitted electronically as described below). EPA will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon 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 rulemaking, 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 rulemaking 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.

IX. 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 all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). 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 entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; 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 proposed rule would not be "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. EPA has determined that approximately 10 percent of the parties affected by this proposed rule could be small businesses. However, EPA expects to receive few SNUNs for this substance. Therefore, EPA believes that the number of small businesses affected by this proposed rule will not be substantial, even if all of the SNUN submitters were small firms.

C. Paperwork Reduction Act.

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0012. Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response,

including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2131), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 19, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.9668 to subpart E to read as follows:

§ 721.9668 Organotin lithium compound.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as organotin lithium compound (PMN P-93-1119) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The

provisions of § 721.185 apply to this section.

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-7142]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (100-year) flood elevations and proposed base (100-year) flood elevation modifications for the communities listed below. The base (100-year) flood elevations and modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street, SW, Washington, DC 20472, (202) 646-2756.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain