

additional statements shall appear on each label and Material Safety Data Sheet (MSDS) as specified by the paragraph: This substance decomposes in polymers or sheet metal coatings at temperatures greater than 280 °C to give 3',3' DCB a suspect human carcinogen.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and processing or use at temperatures above 280 °C.

(iii) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1). When the substance is processed or used as a colorant for dyeing plastics, this section does not apply.

(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), (f), (g), (h), (i) 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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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-50622C; FRL-5723-6]

RIN 2070-AB27

Substituted Phenol; 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 as substituted phenol which is the subject of several premanufacture notices (PMN) P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755. 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 28, 1997.

ADDRESSES: Each comment must bear the docket control number OPPTS-50622C. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. ET-G099, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by following the instructions under Unit VIII of this document. No confidential business information (CBI) should be submitted through e-mail.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing CBI must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. See Unit VII for further information.

FOR FURTHER INFORMATION CONTACT: Susan 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 substituted phenol 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 section 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 SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. 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 SNUR notices 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 PMNs P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755 in the **Federal Register** of August 30, 1995 (60 FR 45072) (FRL-4926-2). EPA received notice of intent to submit adverse comments following publication for this chemical substance. Therefore, as required by § 721.160, the final SNUR for this substance is being withdrawn elsewhere in this issue of the **Federal Register** and this proposed rule on the substance is being issued.

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, subpart E.

PMN Numbers P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755

Chemical name: Substituted phenol.

CAS number: Not available.

Basis of action: The PMN substance has been the subject of six different PMN notices. Based on test data on the PMN

substance and by analogy to phenols. EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 parts per billion (ppb) of the PMN substance in surface waters. EPA determined that use of the substance as described in several of the PMNs did not present an unreasonable risk because the substance did not exceed a concentration of 1 ppb when released to surface waters. The only PMN where releases over 1 ppb were expected has been withdrawn. EPA has determined that other uses and increased production volume may result in releases to surface waters above 1 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i).

Recommended testing: EPA has determined that an algal acute toxicity study (40 CFR 797.1050), a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600), and a 21-day daphnid chronic toxicity test (40 CFR 797.1330) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.5867.

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 August 30, 1995, 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 SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after March 1, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice 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) (53 FR 28354, July 17, 1988), 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 SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice 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-50622C).

VII. Comments Containing Confidential Business Information

Any person who submits comments containing information claimed as confidential business information 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

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS-50622C (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 12 noon to 4 p.m., Monday through Friday, excluding legal

holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:
oppt.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-50622C. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special considerations of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities.

The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL-5597-1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

*Acting 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 § 721.5867 to read as follows:

§ 721.5867 Substituted phenol.

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

(1) The chemical substance generically identified as substituted phenol (PMNs P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755) 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) (where n = 1).

(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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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970611133-7133-01; I.D. 052997B]

RIN: 0648-AJ36

Fisheries of the Exclusive Economic Zone Off Alaska; Improved Retention/Improved Utilization

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 49 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). Amendment 49 would require all vessels fishing for groundfish in the Bering Sea and Aleutian Islands Management Area (BSAI) to retain all pollock and Pacific cod beginning January 1, 1998, and all rock sole and yellowfin sole beginning January 1, 2003. This proposed rule would establish a 15-percent minimum utilization standard for all at-sea processors; for pollock and Pacific cod beginning January 1, 1998, and for rock sole and yellowfin sole beginning January 1, 2003. This action is necessary to respond to socioeconomic needs of the fishing industry that have been identified by the North Pacific Fishery Management Council (Council) and is intended to further the goals and objectives of the FMP.

DATES: Comments on the proposed rule must be received at the following address by August 11, 1997.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the proposed FMP amendment and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 49 are available from NMFS at the above

address, or by calling the Alaska Region, NMFS at 907-586-7228. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the BSAI are managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 49 for Secretarial review and a notice of availability of the FMP amendment was published on June 5, 1997 (62 FR 30835), with comments on the FMP amendment invited through August 4, 1997. Comments may address the FMP amendment, the proposed rule, or both, but must be received by August 4, 1997, to be considered in the approval/disapproval decision on the FMP amendment. All comments received by August 4, 1997, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/disapproval decision on the FMP amendment.

Management Background and Need for Action

In September 1996, the Council approved an Improved Retention/Improved Utilization (IR/IU) program as Amendment 49 to the FMP. Amendment 49 is the result of over 3 years of analysis and debate of alternative solutions to the problem of discards occurring in the groundfish fisheries off Alaska. Approximately 600 million lbs (273,000 mt) of groundfish were discarded annually in the groundfish fisheries of the BSAI, in each of the last several years, which represents an unacceptably high level of discard and waste in the opinion of the Council, the fishing industry, and the American public. The bulk of these groundfish discards are "economic" discards (i.e., catch that is discarded voluntarily for economic reasons). Economic discards include fish of the target species that are the wrong sex or of a size not suitable for the processing equipment being used, species of lower