

ACTION: Proposed rule.

SUMMARY: EPA has issued a final rule under section 4(a) of the Toxic Substances Control Act (TSCA) requiring that manufacturers and processors of biphenyl (CAS Number 92-52-4) test this chemical for environmental effects and chemical fate, consisting of chronic testing on *Daphnia*, early life stage testing on rainbow trout, oyster toxicity, oyster bioconcentration and aerobic and anaerobic biodegradation. The Agency is now proposing that the study plans and schedules for these tests submitted by an industry consortium be adopted, with certain revisions, as the test standards and reporting deadlines for biphenyl under this test rule.

DATE: Submit written comments on or before August 29, 1986.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42031B), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9085), In Washington, DC: (554-1404), Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the Federal Register of September 12, 1985 (50 FR 37182), EPA issued a final rule under section 4(a) of TSCA to require testing of biphenyl for chronic fish toxicity, chronic daphnid toxicity, acute oyster toxicity, oyster bioconcentration and chronic oyster toxicity and aerobic and anaerobic biodegradation. The Agency is now proposing that the industry-submitted study plans and schedules be adopted, with certain revisions, as the test standards and reporting deadlines for the required testing.

I. Background

Biphenyl (CAS Number 92-52-4) was designated by the Interagency Testing Committee (ITC) for priority testing consideration (47 FR 22585; May 25, 1982). EPA issued a proposed rule,

published in the Federal Register of May 23, 1983 (48 FR 23080) in response to the testing recommendations by the ITC on biphenyl. EPA published, under two-phase rulemaking, a final Phase I rule requiring testing of biphenyl on September 12, 1985 (50 FR 37182). For a detailed discussion of EPA's findings and testing requirements for all tests, refer to the final Phase I rule. In accordance with the Test Rule Development and Exemption Procedures for two-phase rulemaking in 40 CFR Part 790, persons subject to this rule were required to submit letters of intent to perform the testing or exemption applications. Those submitting letters of intent were required to submit proposed study plans and schedules for the testing required in the final Phase I rule.

On December 19, 1985, the Biphenyl Ad Hoc Group (BAHG) under the auspices of the Synthetic Organic Chemical Manufacturers Association, Inc. (SOCMA) notified EPA of their intent to sponsor the testing required in the final Phase I test rule and submitted proposed study plans and schedules for all required testing. The BAHG includes Monsanto Company, Dow Chemical Company, Chevron, Chemel, Coastal States Marketing, Koch Chemical and Sybron Chemical Company.

After review and evaluation of these study plans, the Agency requested on January 3, 1986, that the BAHG make certain revisions. On January 24, 1986, the Agency received from the BAHG a complete set of study plans for all of the testing required for biphenyl. These study plans either contained revisions in response to the Agency's request or justifications, contained in cover letters, as to why certain suggested revisions were not made.

After review of the study plans the EPA concluded that certain revisions were still necessary to transform these plans into acceptable test standards for the testing required for biphenyl. These revisions were incorporated into a document entitled "Revision of Study Plans for Biphenyl" which, together with the attached submitted study plans, shall be referred to as the EPA-modified study plans for biphenyl.

II. Proposed Test Standards

The BAHG has notified EPA of their agreement to sponsor the testing required in the final Phase I rule for biphenyl in 40 CFR 799.925. The BAHG has also submitted proposed study plans for the required testing, which, after evaluation, the EPA has revised, resulting in the EPA-modified study plans for biphenyl. The BAHG proposes to conduct the following studies: Flow-

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42031B; FRL-3048-9]

Toxic Substances; Biphenyl; Proposed Test Standards

AGENCY: Environmental Protection Agency (EPA).

commenters. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether the meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a public record for this rulemaking (docket number OPTS-42031B). This record includes the basic information considered by the Agency in developing this proposal and appropriate Federal Register notices. The Agency will supplement the record with additional information as it is received.

The record now includes: (1) Final Phase I rule on biphenyl, (2) contact reports of telephone conversations, and (3) letters and memoranda related to this rulemaking.

The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E-107, 401 M St., SW., Washington, DC 20460.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing required for biphenyl is discussed in the Phase I test rule (50 FR 37182; September 12, 1985).

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments received from OMB, together with any EPA response to these comments, are included in the public record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There is not a significant number of small businesses manufacturing biphenyl.

2. Small manufacturers and small processors of biphenyl are not expected to perform testing themselves or to participate in the organization of the testing efforts.

3. Small manufacturers and small processors of biphenyl will experience only minor costs, if any, in securing exemption for testing requirements.

4. Small manufacturers and small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned the OMB control number 2070-0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW.; Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: July 8, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 799 be amended as follows:

PART 799—[AMENDED]

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By amending § 799.925, by 1, revising paragraphs (c)(1)(ii), (2)(ii), (3)(ii), and (4)(ii), and (d)(1)(ii) and (2)(ii); 2, adding paragraphs (c)(1)(iii), (2)(iii), (3)(iii), (4)(iii) and (d)(1)(iii), and (2)(iii), and 3 and removing paragraph (e) to read as follows:

§ 799.925 Biphenyl.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standards.* The testing shall be conducted in accordance with the following EPA-modified study plan developed by the Biphenyl Ad Hoc Group (BAHG): "Embryo-Larval Toxicity Test with Rainbow Trout,

Salmo gairdneri Richardson." This EPA-modified study plan is available for inspection in EPA's OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, DC 20460; copies of this study plan are available for distribution to the public in the OPTS Reading Room.

(iii) *Reporting requirements.* The *in vitro* embryo-larval toxicity test of biphenyl with rainbow trout shall be completed and a final report submitted to the Agency within 72 weeks of the effective date of the final Phase II rule. However, if this study is performed before the flow-through chronic toxicity test with *Daphnia magna* described in paragraph (c)(2) of this section, then the final report for this rainbow trout early-life-stage shall be completed and a final report submitted to the Agency within 42 weeks from the effective date of the biphenyl Phase II final rule. Interim progress reports shall be submitted at 6-month intervals from the effective date of the biphenyl Phase II final rule.

(2) * * *

(ii) *Test standard.* The testing shall be conducted in accordance with the following EPA-modified study plan developed by the Biphenyl Ad Hoc Group (BAHG): "Flow-Through Chronic Toxicity Test with *Daphnia magna* Straus." This EPA-modified study plan is available for inspection in EPA's OPTS Reading Room, Rm. E-107, 401 M St., SW., Washington, DC 20460; copies of this study plan are available for distribution to the public in the OPTS Reading Room.

(iii) *Reporting requirements.* The flow-through chronic toxicity test of biphenyl with *Daphnia magna* shall be completed and a final report submitted to the Agency within 30 weeks from the effective date of the final Phase II rule. However, if the *in vitro* embryo-larval toxicity test with rainbow trout described in paragraph (c)(1) of this section is performed before this study, then the final report for this chronic *Daphnia* study shall be completed and a final report submitted to the Agency within 72 weeks from the effective date of the biphenyl Phase II final rule. Interim progress reports shall be submitted at 6-month intervals from the effective date of the biphenyl Phase II final rule.

(3) * * *

(ii) *Test standard.* The testing shall be conducted in accordance with the following EPA-modified study plan developed by the Biphenyl Ad Hoc Group (BAHG): "Oyster Shell Deposition Bioassay and Range-Finding Study." This EPA-modified study plan is available for inspection in EPA's OPTS Reading Room, Rm. E-107, 401 M St.,