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Richard Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

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40 CFR Part 372

[OPPTS–400095; FRL–4958–8]

Di-(2-ethylhexyl) Adipate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a petition to delist di-(2-ethylhexyl) adipate (DEHA) (Chemical Abstract Service (CAS) No. 103-23-1), also known as bis-(2-ethylhexyl) adipate, from the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). This action is based on EPA's preliminary conclusion that DEHA meets the deletion criteria of EPCRA section 313(d)(3). Specifically, EPA is proposing to grant this petition because, based on the total weight of available data, EPA believes that: (1) DEHA cannot reasonably be anticipated to cause significant acute adverse human health effects at concentration levels expected to occur beyond facility site boundaries and thus does not meet the criterion of EPCRA section 313(d)(2)(A); (2) DEHA does not meet the criterion of EPCRA section 313(d)(2)(B) because it cannot reasonably be anticipated to cause cancer, teratogenic effects, immunotoxicity, neurotoxicity, gene mutations, liver, kidney, reproductive, or developmental toxicity or other serious or irreversible chronic health effects; and (3) DEHA does not meet the criterion of EPCRA section 313(d)(2)(C) because it cannot reasonably be anticipated to cause significant and serious adverse effects on the environment.

DATES: Written comments on this proposed rule must be received by October 2, 1995.

ADDRESSES: Submit written comments in triplicate and identified with docket number ''OPPTS–400095'' to: OPPT Document Control Officer (7407), Environmental Protection Agency, Rm. NE–G99, 401 M St., SW., Washington, DC 20460.

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–400095. 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 V. of this document.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, 202-260-9592, e-mail: doa.maria@epamail.epa.gov, for specific information regarding this proposed rule. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800-535-0202, in Virginia and Alaska: 703-412-9877, or Toll free TDD: 800-553-7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99-499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 of EPCRA established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. DEHA was included in the initial list of chemicals and categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61439, November 30, 1994).

II. Description of Petition and Other Applicable Regulations

On January 18, 1995, EPA received a petition from the Chemical Manufacturers Association to exclude di-(2-ethylhexyl) adipate (DEHA) from section 313 of EPCRA. Specifically, the petition requests that DEHA be deleted from the list of reportable chemicals and not be subject to the annual reporting requirements under EPCRA section 313 and section 6607 of the PPA. The petitioner contends that DEHA should be deleted from the EPCRA section 313 list because, in their opinion, the available data show that DEHA does not meet the criteria for inclusion on the list of EPCRA section 313 chemicals.

Under the Safe Drinking Water Act, DEHA has a Maximum Contaminant Level of 0.4 milligrams per liter (mg/L).

III. EPA's Technical Review of Di-(2-ethylhexyl) adipate

A. Chemistry

DEHA (CAS No. 103-23-1), also known as bis(2-ethylhexyl) adipate and as dioctyl adipate, is an aliphatic ester used primarily as a plasticizer in a variety of products such as polyvinyl chloride (PVC) and other plastics, cellophane, rubber, and cosmetics. It is a light-colored, oily liquid with low water solubility (0.78 milligrams/liter (mg/L) at 22 °C measured in 1986). DEHA has a very high boiling point (410 °C), low volatility, very low pour point, and excellent low temperature fluidity (Ref. 1).

B. Toxicological Evaluation

Information on DEHA was reviewed for evidence indicating: (1) Bioavailability and metabolism; (2) acute toxicity; (3) chronic toxicity; (4) carcinogenicity; and (5) ecotoxicity.