



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2018-0649; FRL-10001-47]

RIN 2070-AB27

Significant New Use Rules on Certain Chemical Substances (18-2)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that are the subject of premanufacture notices (PMNs), and Orders issued by EPA under TSCA. The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required by that determination.

DATES: This rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001;

telephone number: (202) 564-9232; email address: *moss.kenneth@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA. Importers of chemicals subject to these SNURs must certify compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL**

REGISTER] are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

B. How Can I Access the Docket?

The docket includes information considered by the Agency in developing the proposed and final rules. The docket for this action, identified by the docket identification (ID) number listed at the top of this document, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. Background

A. What Action is the Agency Taking?

EPA is finalizing these SNURs under TSCA section 5(a)(2) for 28 substances which were the subject of PMNs. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

EPA is not finalizing one proposed SNUR at 40 CFR 721.11173 for the chemical substances P-15-442, P-15-443, P-15-444, P-15-445, P-15-446, P-15-447, P-15-525, P-15-526, P-15-527, and P-15-528, because the Agency is currently reviewing data submitted in support of

a request to modify the underlying TSCA section 5(e) Order that forms the basis for the proposed SNUR. EPA will finalize that proposed SNUR after the data has been reviewed and any changes to the Order and/or SNUR have been considered and identified. In addition, the Agency has modified the underlying Order for the SNUR at 40 CFR 721.11174 to add the substances described in PMNs P-18-193, P-18-194, P-18-195, P-18-196, P-19-124, P-19-125, P-19-126, P-19-127, P-19-128, and P-19-129. All terms of the Order and proposed SNUR remain the same.

In the **Federal Register** of October 10, 2018 (83 FR 50872) (FRL-9984-67), EPA proposed a SNUR for 28 chemical substances to be added to 40 CFR part 721 subpart E. The comment period closed on November 9, 2018. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents for the direct final SNUR of October 10, 2018 (83 FR 50838) (FRL-9984-65). This direct final SNUR was withdrawn on December 7, 2018 (83 FR 63066) (FRL-9987-43) due to adverse public comments related to SNURs identified in the document. The record for the SNUR was established in the docket under docket ID number EPA-HQ-OPPT-2018-0649. That docket includes information considered by the Agency in developing the proposed and final rules, public comments submitted for the rule, and EPA's responses to public comments received on the proposed rule.

B. What is the Agency's Authority for Taking this Action?

TSCA section 5(a)(2) (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 the four TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90

days before they manufacture or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)(i)).

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). These requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the use is not likely to present an unreasonable risk of injury under the conditions of use for the chemical substance or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. In the case of a determination other than not likely to present unreasonable risk, the applicable review period must also expire before manufacturing or processing for the new use may commence. If EPA determines that the use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

When the Agency issues an Order under TSCA section 5(e), section 5(f)(4) requires that the Agency consider whether to promulgate a SNUR for any use not conforming to the

restrictions of the Order or publish a statement describing the reasons for not initiating the rulemaking. TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In determining what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Public Comments on Proposed Rule and EPA Responses

EPA received public comments from three entities on the proposed rule. The Agency's responses are described in a separate Response to Public Comments document that is available in the docket for this rule. As described in the Response to Public Comments document, EPA made a minor change to the final rule to be consistent with the requirements of the TSCA Section 5(e) Order for P-17-257 (40 CFR 721.11179).

V. Substances Subject to this Rule

EPA is establishing significant new use and recordkeeping requirements for 28 chemical

substances in 40 CFR part 721, subpart E. In Unit IV. of the original direct final SNUR of October 10, 2018 (83 FR 50838), EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) Order.
- Potentially Useful Information. This is information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substance in support of a request by the PMN submitter to modify the Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of each rule specifies the activities designated as significant new uses. Certain new uses, including exceedance of production volume limits (i.e., limits on manufacture volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

These final rules include 28 PMN substances that are subject to orders issued under TSCA section 5(e)(1)(A), as required by the determinations made under TSCA section 5(a)(3)(B). Those Orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The proposed SNURs would identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to

the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).

VI. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. of the original direct final SNUR of October 10, 2018 (83 FR 50838). Based on these findings, TSCA section 5(e) Orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. As a general matter, EPA believes it is necessary to follow TSCA section 5(e) Orders with a SNUR that identifies the absence of those protective measures as Significant New Uses to ensure that all manufacturers and processors – not just the original submitter – are held to the same standard.

B. Objectives

EPA is issuing these SNURs because the Agency wants:

- To identify as significant new uses any manufacturing, processing, use, distribution in commerce, or disposal that does not conform to the restrictions imposed by the underlying Orders, consistent with TSCA section 5(f)(4).
- To receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- To have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.

- To be able to either determine that the prospective manufacture or processing is not likely to present an unreasonable risk, or to take necessary regulatory action associated with any other determination, before the described significant new use of the chemical substance occurs.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which a NOC has not been submitted, EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. However, TSCA section 5(e) Orders have been issued for all the chemical substances, and the PMN submitters are prohibited by the TSCA section 5(e) Orders from undertaking activities which will be designated as significant new uses. The identities of 27 chemical substances subject to this rule have been claimed as confidential for a chemical substance covered by this action. Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

Furthermore, EPA designated October 10, 2018 (the date of public release of the proposed and direct final rules) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of October 10, 2018, that person will have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons will have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require developing any particular new information (e.g., generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to them or reasonably ascertainable (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing under 40 CFR part 721, subpart E. Unit IV. of the original direct final SNUR (83 FR 50838) lists potentially useful information for all SNURs listed here. Descriptions

of this information is provided for informational purposes. The potentially useful information identified in Unit IV. of the original direct final rule will inform EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance. EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing on vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialogue with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

In some of the TSCA section 5(e) Orders for the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of specified tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. The SNURs contain the same production volume limits as the TSCA section 5(e) Orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture or processing.

Any request by EPA for the triggered and pended testing described in the Orders was made based on EPA's consideration of available screening-level data, if any, as well as other

available information on appropriate testing for the PMN substances. Further, any such testing request on the part of EPA that includes testing on vertebrates was made after consideration of available toxicity information, computational toxicology and bioinformatics, and high-throughput screening methods and their prediction models.

The potentially useful information identified in Unit IV. of the original direct final SNUR of October 10, 2018 (83 FR 50838) may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data or other information may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. The EPA procedure to deal with the situation where a specific significant new use is CBI is in 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine

whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.1725(b)(1) with that under 40 CFR 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software,

and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2018-0649.

XII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB

approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is “good cause” under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection activities in this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including using automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that

promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a “significant new use.” Because these uses are “new,” based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA’s experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$16,000 to \$2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about \$10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the *Federal Register* of June 2, 1997 (62 FR 29684) (FRL-5597-1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons

to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note) does not apply to this action.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

XIII. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 13, 2019.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9--[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 et seq., 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 et seq., 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 et seq., 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

2. In § 9.1, add entries for §§ 721.11174 through 721.11181 in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation				OMB control No.		
*	*	*	*	*	*	*
Significant New Uses of Chemical Substances						
*	*	*	*	*	*	*
		721.11174			2070-0012	
		721.11175			2070-0012	
		721.11176			2070-0012	
		721.11177			2070-0012	
		721.11178			2070-0012	
		721.11179			2070-0012	
		721.11180			2070-0012	
		721.11181			2070-0012	
*	*	*	*	*	*	*

* * * * *

PART 721--[AMENDED]

3. The authority citation for part 721 continues to read as follows:

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

4. Add §§ 721.11174 through 721.11181 to subpart E to read as follows:

Subpart E—Significant New Uses For Specific Chemical Substances

Sec.

* * * * *

721.11174 Silane-treated aluminosilicate (generic).

721.11175 Heteropolycycliccarboxylic acid, 1,3-dihydro-disubstituted-, polymer with 1,1'-methylenebis[4-isocyanatobenzene], reaction products with silica (generic).

721.11176 Carbonic acid, alkyl carbomonocyclic ester (generic).

721.11177 1,3-Propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2-(chloromethyl)oxirane, reaction products with polyethylene-polypropylene glycol 2-aminopropyl Me ether.

721.11178 Copolyamide of an aromatic dicarboxylic acid and a mixture of diamines (generic).

721.11179 Single-walled carbon nanotubes (generic).

721.11180 Arenesulfonic acid, alkyl derivatives, metal salts (generic).

721.11181 Heteromonocycle, 2-[(bicarbomonocycle-2-substituted)alkyl]- (generic).

* * * * *

721.11174 Silane-treated aluminosilicate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as silane-treated aluminosilicate (PMNs P-16-194, P-16-195, P-16-196, P-16-197, P-16-198, P-16-199, P-16-460, P-16-461, P-16-462, P-16-463, P-16-464, P-18-193, P-18-194, P-18-195, P-18-196, P-19-124, P-19-125, P-19-126, P-19-127, P-19-128, and P-19-129) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substances after they have been completely incorporated into a polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(4), (5)

(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50) and (6) (particulate), (b) (concentration set at 0.1%), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1)(ii) through (ix), (2)(i) through (v), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the substances without sampling and analyzing the immediate precursor used to manufacture the substances according to the terms specified in the TSCA section 5(e) Order for the following elements: arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, manganese, mercury, nickel, selenium, silver, vanadium, and zinc. It is a significant new use to manufacture the substances at facilities other than those equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency. It is a significant new use to process the substances other than in an enclosed system that does not allow for the release of particulates or at facilities equipped with pollution controls, such as a bag house, that remove particulates from the air at 99% or greater efficiency.

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (d)

and (f) through (i) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11175 Heteropolycycliccarboxylic acid, 1,3-dihydro-disubstituted-, polymer with 1,1'-methylenebis[4-isocyanatobenzene], reaction products with silica (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heteropolycycliccarboxylic acid, 1,3-dihydro-disubstituted-, polymer with 1,1'-methylenebis[4-isocyanatobenzene], reaction products with silica (PMN P-16-307) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) through (iii), (3) and (6) (particulate), (b) (concentration set at 1.0 %), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e)(concentration set at 1.0%), (f), (g)(1)(i) and (ii), (2)(i) through (iii) and (v), and (5).

Alternative hazard and warning statements that meet the criteria of the Globally Harmonized

System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process, or use the substance for consumer use or for commercial uses that could introduce the substance into a consumer setting. It is a significant new use to manufacture, process, or use the substance other than in a liquid formulation. It is a significant new use to manufacture the PMN substance to contain more than 0.1% residual isocyanate by weight. It is a significant new use to manufacture, process, or use the substance in any manner that results in generation of a vapor, dust, mist or aerosol.

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11176 Carbonic acid, alkyl carbomonocyclic ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbonic acid, alkyl carbomonocyclic ester (PMN P-17-176) 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) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iv), (3), (6)(v) and (vi), (particulate), (b) (concentration set at 1.0%), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering

control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), (g)(1)(iv), (v), (vi) and (ix), (2)(i) and (v), (3)(i) and (ii), (4) (do not release to water above 45 parts per billion), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f). It is a significant new use to manufacture the chemical substance more than 3 years.

(iv) *Release to water.* Release to water requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=45.

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

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

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11177 1,3-Propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2-(chloromethyl)oxirane, reaction products with polyethylene-polypropylene glycol 2-aminopropyl Me ether.

(a) *Chemical substance and significant new used subject to reporting.* (1) The chemical substance identified as 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with 2-

(chloromethyl)oxirane, reaction products with polyethylene-polypropylene glycol 2-aminopropyl Me ether (PMN P-17-183, CAS No 1627528-04-4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication*. Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), (g)(1)(ii), (2)(ii), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(f), (k), and (o). It is a significant new use to process or use the substance in any manner way that results in generation of a vapor, dust, mist or aerosol.

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

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125(a) through (c) and (f) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

§ 721.11178 Copolyamide of an aromatic dicarboxylic acid and a mixture of diamines (generic).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as copolyamide of an aromatic dicarboxylic acid and a mixture of diamines (PMN P-17-232) 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) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the substance with a particle size less than 10 microns.

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11179 Single-walled carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as single-walled carbon nanotubes (PMN P-17-257) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance that have been embedded or incorporated into a polymer matrix that itself has been reacted (cured); embedded in a permanent solid polymer form that is not intended to undergo further processing, except mechanical processing; or incorporated into an article as defined at 40 CFR 720.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i), (3), (4), (5) (respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), and (6)(particulate), and (c). When determining which

persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (a)(4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and (k). It is a significant new use to manufacture the chemical substance more than 6 months. It is a significant new use to process or use the substance for non-industrial use except for the confidential non-industrial use described in the TSCA section 5(e) Order. It is a significant new use to use an application method that generates a vapor, dust, mist or aerosol unless the application method occurs in an enclosed process.

(iii) *Disposal.* Requirements as specified in § 721.85(a)(1), (a)(2), (b)(1) and (2), and (c)(1) and (2).

(iv) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) and (j) through (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

§ 721.11180 Arenesulfonic acid, alkyl derivatives, metal salts (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical

substance identified generically as arenesulfonic acid, alkyl derivatives, metal salts (PMN P-17-283) 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) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) and (iii) and (3), (b)(concentration set at 1.0%), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 1.0%), (f), (g)(1) ((skin sensitization), (eye irritation), (lung effects), (skin corrosion)), (2)(i), (iii) and (v), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture the chemical substance more than 6 months. It is a significant new use to manufacture, process or use the substance in any manner way that results in generation of a vapor, mist, spray, or aerosol.

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provision of § 721.185 apply to this section.

§ 721.11181 Heteromonocycle, 2-[(bicaromonocycle-2-substituted)alkyl]- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as heteromonocycle, 2-[(bicaromonocycle-2-substituted)alkyl]- (PMN P-17-353) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the substance after they have been reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (2)(i) through (iv) and (3), (b) (concentration set at 0.1%), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (e) (concentration set at 0.1%), (f), (g)(1), (vi), (vii), and (ix) ((mutagenicity) (eye, skin, lung, and mucous membrane irritation) (skin and lung sensitization)), (2)(i) through (iii) and (v) (avoid workplace airborne concentrations), (3)(i) and (ii), (4)(iii), and (5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities:* Requirements as specified in § 721.80(f) and (k). It is a significant new use to process or use the substance in any manner that

generates a vapor, spray, mist, or aerosol.

(iv) *Release to water.* Requirements as specified in § 721.90(b)(1) and (c)(1).

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(iii) of this section.

[FR Doc. 2019-26225 Filed: 12/4/2019 8:45 am; Publication Date: 12/5/2019]