

review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationships between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the 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), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply Distribution or Use" (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This action does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another

standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 2, 2002.

**Ronald A. Kreizenbeck,**  
Deputy Regional Administrator, Region 10.  
[FR Doc. 02-8533 Filed 4-10-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[OPPTS-50606A; FRL-6805-1]

RIN 2070-AB27

### Significant New Uses of Certain Chemical Substances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for six chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. Today's action

requires persons who manufacture, import, or process these substances to notify EPA at least 90 days before commencing the manufacturing or processing of a substance for a use designated by these rules as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs to prevent any unreasonable risk of injury to human health or the environment.

**DATES:** This final rule is effective on May 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: James Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-8974; e-mail address: alwood.jim@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, import, process, or use the chemical substances contained in this rule. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Chemical manufacturers	325	Manufacturers, importers, processors, and users of chemicals
Petroleum and coal product industries	324	Manufacturers, importers, processors, and users of chemicals

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action

applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in title 40 of the Code of Federal Regulations (CFR) at 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the Federal Register listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 721 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr721\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr721_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS-50606A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

## II. Background

### A. What Action is the Agency Taking?

This SNUR will require persons to notify EPA at least 90 days before

commencing manufacturing, importing, or processing a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for the rule and on the basis for significant new use designations including provisions for developing test data.

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

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) of TSCA. Expedited rulemaking procedures for SNURs are described in 40 CFR Part 721, Subpart D. Once EPA promulgates a rule designating a use of a chemical substance as a significant new use, section 5(a)(1)(B) of TSCA and 40 CFR Part 721 require persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. More detailed requirements are set forth in 40 CFR Part 721.

### C. Applicability of General Provisions

General provisions for SNURs appear in subpart A of 40 CFR part 721. 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 final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same requirements and procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA 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 TSCA sections 5(e), 5(f), 6, or 7 to control the activities described in the SNUR notice. If EPA does not take action, EPA is required under TSCA section 5(g) 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). Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified by the US Customs Service at 19 CFR 12.118 through 12.127 and 127.28(i). The EPA policy in support of these Customs regulations appears at 40 CFR part 707. Such persons must certify that they are in compliance with SNUR requirements.

## III. Substances Subject to this Rule

In the **Federal Register** of May 27, 1993 (58 FR 30741), EPA proposed SNURs for six chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. The background and reasons for the SNURs are set forth in the preamble to the proposed rule.

EPA received no comments for the proposed SNURs for PMN Numbers P-84-105, P-84-106, and P-84-107, which were identified generically as substituted and disubstituted tetrafluoro alkenes. Therefore, EPA is issuing the SNURs as proposed. EPA received comments concerning the proposed rule for P-85-433, identified as 1-propanol, 3-mercapto-, and PMNs P-84-660 and P-84-704, identified as benzene, ethenyl-, ar-bromo- derivatives and benzene, (2-bromoethyl)-, ar-bromo derivatives. EPA is issuing modified final SNURs for P-85-433, P-84-660, and P-84-704 as described in the response to comments discussed in this unit.

The section number for P-84-660 was originally proposed as § 721.9540. In this final rule the section number for P-84-660 has been changed to § 721.1230. This change was necessary because during the period between issuance of the proposed rule and final rule, EPA mistakenly assigned § 721.9540 to another final SNUR for a different chemical substance.

The commenter for P-85-433 was the submitter of the original PMN and is subject to the TSCA 5(e) consent order for that substance. The commenter noted that the National Institute of Occupational Safety and Health (NIOSH) category 23 air purifying respirator required by the order is used during routine manufacturing activities and should also be permitted by the SNUR. As use of this respirator is an ongoing use, EPA will add it to the list of respirators that can be used by persons who are reasonably likely to be exposed by inhalation.

The commenter also asked EPA to clarify if the required respiratory protection is necessary for quality control activity conducted during the

manufacturing process with chemical hoods under negative pressure. EPA interprets the regulatory language in the consent order "persons who may be exposed" and the language in the SNUR "person who is reasonably likely to be exposed to the chemical substance by inhalation" as not applying to persons handling the substance in a chemical hood under negative pressure. Therefore, use in a chemical hood under negative pressure without respiratory protection does not require a SNUN. However, required respiratory equipment should be available if, for any reason, activities in the chemical hood are not conducted under negative pressure. The commenter felt that disposal by release into an evaporation pond increases the probability of exposures to vapors and should not be allowed. This method of disposal was identified during review of the PMN substance and is permitted by the TSCA section 5(e) consent order. EPA considers it an ongoing use and did not determine that disposal in an evaporation pond may present an unreasonable risk. Therefore, disposal by this method will be permitted but is not required.

The commenter for P-84-660 and P-84-704 was the submitter of the PMNs and is subject to the TSCA 5(e) consent order for those substances. The commenter noted there were no equivalent provisions in the SNUR for the New Chemicals Exposure Limits (NCELs) provisions found in the TSCA 5(e) consent order. This would require the commenter's customers to file a SNUN if they wanted to use the NCELs provisions in the consent order. EPA has added language in the final SNUR to include the NCELs provision. The commenter also identified several issues with provisions regarding de minimis levels, disposal restrictions, and the specific use of P-84-660 as a flame retardant in the SNUR that were not consistent with the TSCA 5(e) consent order, while noting a pending request to modify the TSCA 5(e) consent order that would also address these issues. The commenter stated that EPA should wait until the modifications were completed before issuing the final SNUR. After completing two modifications to the TSCA 5(e) consent order, EPA is issuing the final SNUR reflecting the changes in disposal restrictions and de minimis levels, while retaining the restriction for the specific use of P-84-660 as a flame retardant in the TSCA 5(e) consent order. The changes to the final SNUR will make it consistent with provisions in the TSCA 5(e) consent order. Retaining the SNUR provision limiting

the specific use of P-84-660 as a flame retardant is also consistent with the provisions of the TSCA 5(e) consent order.

#### IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that regulation was warranted under section 5(e) of TSCA, pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The basis for such findings is outlined in Unit III. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these substances designated herein are consistent with the provisions of the TSCA section 5(e) consent orders.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure that:

1. EPA will receive notice of any company's intent to manufacture, import, or process a listed chemical substance for a significant new use before that activity begins.
2. EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use.
3. When necessary, to prevent unreasonable risks, EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs.
4. All manufacturers, importers, and processors of the same chemical substance, which is subject to a TSCA section 5(e) consent order, are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for determining whether or not a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

#### V. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUN. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a TSCA section 5(e) consent order requires or

recommends certain testing, Unit III lists those recommended tests.

However, EPA has established production limits in the TSCA section 5(e) consent orders for several of the substances regulated under this rule, 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 substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks before reaching the specified production limit (earlier consent orders required submissions at least 12 weeks before). Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit III. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. 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:

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

#### VI. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as Confidential Business Information (CBI) subject to Agency confidentiality regulations at 40 CFR part 2. EPA is required to keep this information confidential to protect the CBI of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance

subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.1725(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the 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 substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. 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. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus, the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

#### VII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant "new" use, EPA must determine that the use is not already ongoing. The chemical substances subject to this rule underwent premanufacture notice review. TSCA section 5(e) consent orders were issued, and notice submitters are prohibited by the TSCA

section 5(e) consent orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received an NOC and the substance has not been added to the Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted at this time, EPA has concluded that the uses are not currently ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule.

As discussed in the **Federal Register** of April 24, 1990, EPA has decided that the intent of section 5(a)(1)(B) of TSCA is best served by designating a use as a significant "new" use as of the first date of publication of the proposed SNUR in the **Federal Register**, rather than as of the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this 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.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 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 the first date of publication of the proposed SNUR and the effective date of the final 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.

#### VIII. 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 subject to this rule. EPA's complete economic analysis is available in the

official record for this rule (OPPTS-50606A).

#### IX. Regulatory Assessment Requirements

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) has determined that proposed or final SNURs are not a "significant regulatory action" subject to review by OMB, because they do not meet the criteria in section 3(f) of the Executive Order.

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 rulemaking. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 276755, May 19, 1998), do not apply to this rule. Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001, revokes Executive Order 13084 as of that date. EPA developed this rulemaking, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. For the same reasons stated for Executive Order 13084, the requirements of Executive Order 10175 do not apply to this rule either. Nor will this action 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, entitled *Federalism* (64 FR 43255, August 10, 1999).

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (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.

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (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 rationale supporting this conclusion is as follows. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." By definition of the word "new," and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since a SNUR only requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a Significant New Use Notice (SNUN), no economic impact will even occur until someone decides to engage in those activities. Although some small

entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 530 SNURs, the Agency has received fewer than 15 SNUNs. Of those SNUNs submitted, none appear to be from small entities in response to any SNUR. In addition, the estimated reporting cost for submission of a SNUN are minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impact 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 on June 2, 1997 (62 FR 29684) (FRL-5597-1), the Agency presented its general determination that proposed and 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.

According to the Paperwork Reduction Act (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, after initial display in the preamble of the final rule and in addition to its display on any related collection instrument, are listed in 40 CFR part 9.

The information collection requirements related to 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 significant new use notice 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 significant new use notice.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, OP Regulatory Information Division (2137), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please remember to include the OMB control number in any

correspondence, but do not submit any completed forms to this address.

This rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. 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 rule 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 substances, Reporting and recordkeeping requirements.

Dated: March 28, 2002.

**William H. Sanders, III**

*Office Director, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

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

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

2. By adding new § 721.1230 to subpart E to read as follows:

#### § 721.1230 Benzene, ethenyl-, ar-bromo derivatives.

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

(1) The chemical substance identified as benzene, ethenyl-, ar-bromo derivatives (PMN P-84-660; CAS No. 125904-11-2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this SNUR do not apply when the substance is present only in a mixture or in a polymer matrix, if the combined concentration of this substance and the substance identified in § 721.1240 as benzene, (2-bromoethyl)-, ar-bromo derivatives

(PMN P-84-704; CAS No. 125904-10-1), present as residual monomers in the mixture or polymer matrix, does not exceed 0.5% by weight or volume. This exemption does not apply if there is reason to believe that during intended use, processing, or other handling, these substances combined may be reconcentrated above the 0.5% level in the mixture or polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1) (including when the substance becomes airborne in any form), (a)(3), (a)(4) (when the substance becomes airborne in any form), (a)(5)(iii), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), (a)(5)(xv) and (c). As an alternative to the respiratory requirements listed here, a manufacturer, importer, or processor may choose to follow the NCEL provisions in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi) (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (a), (b), (j) (flame retardant), and (l).

(iv) *Disposal.* It is a significant new use to dispose of the substance other than as follows:

(A) The following forms of the substance - the substance as a commercial chemical product or manufacturing chemical intermediate; the substance as an off-specification commercial chemical product or manufacturing chemical intermediate; the substance as a residue remaining in a container or in an inner liner removed from a container that has held the substance, unless the container is empty as defined in 40 CFR 261.7(b)(3); any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of the substance as a commercial chemical product or manufacturing chemical intermediate, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water, of the substance as an off-specification commercial chemical product or manufacturing chemical intermediate; and any waste stream containing greater than 1.0% of this substance and the substance identified in § 721.1240 combined - shall be disposed of as follows: Requirements as specified in § 721.85 (a)(1), (b)(1), (c)(1), (a)(2), (b)(2), and (c)(2); the landfill shall be operated in accordance with Subtitle C of the

Resource Conservation and Recovery Act.

(B) Any forms of the substance other than those described in paragraph (a)(2)(iv)(A) of this section, including waste streams containing 1.0% or less of this substance and the substance identified in § 721.1240, shall be disposed of as follows: § 721.85 (a)(1), (b)(1), (c)(1), (a)(2), (b)(2), (c)(2), (a)(3), (b)(3), (c)(3), carbon adsorption followed by either physical destruction, or as specified in § 721.90; the landfill shall be operated in accordance with the Resource Conservation and Recovery Act.

(v) *Release to water.* Requirements as specified in § 721.90 (a)(2)(iv), (b)(2)(iv), (c)(2)(iv), (a)(2)(v), (b)(2)(v), (c)(2)(v), (a)(3), (b)(3), and (c)(3).

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

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

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

3. By adding new § 721.1240 to subpart E to read as follows:

**§ 721.1240 Benzene, (2-bromoethyl)-, ar-bromo derivatives.**

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

(1) The chemical substance identified as benzene, (2-bromoethyl)-, ar-bromo derivatives (PMN P-84-704; CAS No. 125904-10-1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this SNUR do not apply when the substance is present only in a mixture or in a polymer matrix, if the combined concentration of this substance and the substance identified in § 721.1230 as benzene, ethenyl-, ar-bromo derivatives (PMN P-84-660; CAS No. 125904-11-2) present as residual monomers in the mixture or polymer matrix, does not exceed 0.5% by weight or volume. This exemption does not apply if there is reason to believe that during intended use, processing, or other handling, these substances combined may be reconcentrated above the 0.5% level in the mixture or polymer matrix.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1) (including when the substance becomes airborne in any form), (a)(3), (a)(4) (when the substance becomes

airborne in any form), (a)(5)(iii), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), (a)(5)(xv), and (c). As an alternative to the respiratory requirements listed here, a manufacturer, importer, or processor may choose to follow the NCEL provisions in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(iii), (g)(1)(iv), (g)(1)(vi) (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (a), (b), (c), (h) (in the manufacture of the substance identified in § 721.1230), and (l).

(iv) *Disposal.* It is a significant new use to dispose of the substance other than as follows:

(A) The following forms of the substance - the substance as a commercial chemical product or manufacturing chemical intermediate; the substance as an off-specification commercial chemical product or manufacturing chemical intermediate; the substance as a residue remaining in a container or in an inner liner removed from a container that has held the substance, unless the container is empty as defined in 40 CFR 261.7(b)(3); any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water of the substance as a commercial chemical product or manufacturing chemical intermediate, or any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into or on any land or water, of the substance as an off-specification commercial chemical product or manufacturing chemical intermediate; and any waste stream containing greater than 1.0% of this substance and the substance identified in § 721.1230 combined - shall be disposed of as follows: Requirements as specified in § 721.85 (a)(1), (b)(1), (c)(1), (a)(2), (b)(2), and (c)(2); the landfill shall be operated in accordance with Subtitle C of the Resource Conservation and Recovery Act.

(B) Any forms of the substance other than those described in paragraph (a)(2)(iv)(A) of this section, including waste streams containing 1.0% or less of this substance and the substance identified in § 721.1240, shall be disposed of as follows: § 721.85 (a)(1), (b)(1), (c)(1), (a)(2), (b)(2), (c)(2), (a)(3), (b)(3), (c)(3), carbon adsorption followed by either physical destruction, or as specified in § 721.90; the landfill shall be operated in accordance with the

Resource Conservation and Recovery Act.

(v) *Release to water.* Requirements as specified in § 721.90 (a)(2)(iv), (b)(2)(iv), (c)(2)(iv), (a)(2)(v), (b)(2)(v), (c)(2)(v), (a)(3), (b)(3), and (c)(3).

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

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

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

4. By adding new § 721.3780 to subpart E to read as follows:

**§ 721.3780 Substituted and disubstituted tetrafluoro alkenes (generic).**

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted and disubstituted tetrafluoro alkene (PMN P-84-105) is subject to reporting under this section for the significant new uses described in paragraph (a)(1)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1%), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b)(2), (d), (e) (concentration set at 1%), (f), (g)(1)(i), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

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

(A) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125 (a) through (g) and (i).

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

(2) The chemical substance identified generically as disubstituted tetrafluoro alkene (PMN P-84-106) is subject to reporting under this section for the

significant new uses described in paragraph (a)(2)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1%), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b)(2), (d), (e) (concentration set at 1%), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(v), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

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

(A) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125 (a) through (g) and (i).

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

(3) The chemical substance identified generically as disubstituted tetrafluoro alkene (PMN P-84-107) is subject to reporting under this section for the significant new uses described in paragraph (a)(3)(i) of this section.

(i) The significant new uses are:

(A) *Protection in the workplace.*

Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(v), (a)(6)(vi), (b) (concentration set at 1%), and (c).

(B) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b)(2), (d), (e) (concentration set at 1%), (f), (g)(1)(iv), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), and (g)(2)(v). In addition, the precautionary statements described under § 721.72(g) shall include: This substance may cause eye irritation.

(C) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

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

(A) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance: § 721.125 (a) through (g) and (i).

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

5. By adding new § 721.8175 to subpart E to read as follows:

**§ 721.8175 1-Propanol, 3-mercapto-.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propanol, 3-mercapto (PMN P-85-433; CAS No. 19721-22-3) 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), (a)(3), (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), (a)(6)(v), (b) (concentration set at 1%), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1%), (f), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(iv) *Disposal.* Requirements as specified in § 721.85 (a)(1), (a)(2), (a)(3), (b)(1), (b)(2), (b)(3), (c)(1), (c)(2), and (c)(3). In addition, a method of disposal described in § 721.85 (a), (b), and (c) shall include: Release to an evaporation pond.

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

(1) *Recordkeeping.* The following recordkeeping requirements are applicable to manufacturers, importers, and processors of this substance as specified in § 721.125 (a) through (j).

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

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**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 101-25**

[FPMR Amendment E-279]

RIN 3090-AH58

**Federal Property Management Regulations; General Policies**

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the general policies portion of the Federal Property Management Regulations