

### 3. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 4. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

### 5. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### 7. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### 9. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to

health or risk to safety that may disproportionately affect children.

### 10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### 11. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone around an OCS Facility to protect life, property and the marine environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. The environmental analysis checklist supporting this determination and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

#### PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 14 U.S.C. 85; 43 U.S.C. 1333; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.859 to read as follows:

#### § 147.859 Safety Zone; Gulfstar 1 SPAR, Mississippi Canyon Block 724, Outer Continental Shelf on the Gulf of Mexico.

(a) *Description.* The Gulfstar 1 Spar is in the deepwater area of the Gulf of Mexico at Mississippi Canyon Block 724. The facility is located at 28°14′05.904″ N, 88°59′43.306″ W, and the area within 500 meters (1640.4 feet) from each point on the facility structure’s outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

- (1) An attending vessel;
- (2) A vessel under 100 feet in length overall not engaged in towing; or
- (3) A vessel authorized by the Commander, Eighth Coast Guard District or a designated representative.

Dated: August 6, 2014.

**Kevin S. Cook,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0727; FRL–9914–19]

RIN 2070–AB27

### Significant New Use Rules on Certain Chemical Substances

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 36 chemical substances which were the subject of premanufacture notices (PMNs). Seventeen of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture or process any of these 36 chemical substances for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. The required notification provides EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

**DATES:** This final rule is effective November 3, 2014.

**ADDRESSES:** The docket for this action, identified by docket identification (ID)

number EPA-HQ-OPPT-2012-0727, 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>.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-8974; email address: [alwood.jim@epa.gov](mailto:alwood.jim@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](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use any of the 36 chemical substances contained in this final rule. Potentially affected entities may include, but are not limited to:

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

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 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 this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 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**.

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; see also 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 chemical substances subject to a final SNUR must certify their 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 final rule 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.

## II. Background

### A. What action is the agency taking?

EPA is finalizing SNURs under TSCA section 5(a)(2) for 36 chemical substances which were the subject of PMNs. Seventeen of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. The final SNURs for these chemical substances are based on and consistent with the provisions in the underlying consent orders. The final SNURs designate as a significant new use manufacture (including import) or processing in the absence of the protective measures required in the corresponding consent order. The final SNURs for the 19 remaining chemical substances are not based on a consent order under TSCA section 5(e). In these 19 cases, EPA has determined in accordance with 40 CFR 721.170(c)(2) that these significant new use activities:

1. Are different from those described in the PMN for the chemical substance, including any amendments, deletions, and additions of activities to the PMN.
2. May be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified for the PMN substance.

This action requires persons who intend to manufacture or process these chemical substances for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** of February 25, 2013 (78 FR 12684) (FRL-9376-7), EPA proposed SNURs for 37 chemical substances. More information on the specific chemical substances subject to this final rule can be found in

the **Federal Register** document proposing the SNURs. The SNURs for these 36 chemical substances was established in the docket under docket ID number EPA-HQ-OPPT-2012-0727. That docket includes information considered by the Agency in developing the proposed and final rules, including comments on the proposed SNURs.

EPA received several comments on the proposed rule for certain chemical substances. A full discussion of EPA's response to these comments is included in Unit V. Based on these comments, EPA is issuing a modified final rule for 36 chemical substances as described in Unit V. EPA is not finalizing one of the proposed SNURs as described in the response to comments. EPA will take action on that proposed SNUR at a later date. For any proposed SNUR for which EPA did not receive comment, EPA is issuing the final rule as proposed.

### 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 TSCA section 5(a)(2). 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. Persons who must report are described in 40 CFR 721.5.

### C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the final 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. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, 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 may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the

activities for which it has received the SNUN. 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.

### III. Rationale and Objectives of the Final Rule

#### A. Rationale

During review of the PMNs submitted for these chemical substances, EPA concluded that for 17 of the 36 chemical substances, regulation was warranted under TSCA section 5(e)(1)(A)(ii)(I), pending the development of information sufficient to make reasoned evaluations of the human health effects of the chemical substances. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent order. These final SNURs are issued pursuant to 40 CFR 721.160. See the docket under docket ID number EPA-HQ-OPPT-2010-1075 for the corresponding consent orders. In the other 19 cases, where the uses were not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met. For additional discussion of the rationale for the SNURs on these chemical substances, see Units II. and V. of the proposed rule.

#### B. Objectives

EPA is issuing these final SNURs for specific chemical substances that have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this final rule:

- EPA will 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.
- EPA will 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.
- EPA will be able to regulate prospective manufacturers or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA section 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers and processors of the

same chemical substance that 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 chemical substance is listed on the 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>.

### IV. Significant New Use Determination

Section 5(a)(2) of TSCA 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 addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine 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, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

### V. Response to Comments on Proposed SNURs

1. *Comment:* One commenter stated that given the number of chemical substances used in the automotive industry, the number of suppliers, and the complications involved with foreign suppliers it was not reasonable to have suppliers identify each chemical substance in their products, including chemical substances in articles, so that automakers would know if they were using chemicals that were subject to SNURs. The commenter also noted the further complication that with so many SNURs applicable to chemical substances with generic chemical identities, identifying the chemical substances subject to a SNUR was even

more difficult. The commenter requested that EPA address this concern and provide guidance on what EPA's expectations are in terms of due diligence and future regulatory actions that depend on chemical identification through the supply chain.

*Response:* EPA expects that if a company manufactures or processes chemical substances it will confirm whether those chemical substances are on the TSCA Inventory and if those chemical substances are subject to TSCA regulations, including SNURs. A company may do this by identifying each chemical and confirming its TSCA status. In cases where a company purchases chemical substances, including formulations with multiple chemical substances that may be only generically identified, an importer or processor may rely on their supplier to confirm the identity of a chemical substance or if a chemical substance is subject to a SNUR. According to 40 CFR 721.5(a)(2), manufacturers (including importers) and processors must notify customers if they distribute a chemical substance that is subject to a SNUR unless they can demonstrate that their customer either already knows about the SNUR or cannot undertake any significant new use designated in the SNUR. EPA recognizes that when a company imports a chemical substance into the United States, its foreign manufacturer or processor is not subject to the requirements of 40 CFR 721.5(a)(2) to notify the importer about whether the chemical substance is subject to a SNUR. Nonetheless, importers are subject to the requirements of TSCA section 5(a)(1) with respect to substances not on the TSCA Inventory or subject to an exemption, and must comply with any applicable SNURs. EPA expects that the importer would confirm the identity of chemical substances it is importing, if those chemical substances are on the TSCA Inventory, and whether they are subject to TSCA regulation including SNURs. In the case of chemical substances that are contained in an article, if the exemption of 40 CFR 721.45(f) is revoked then the person distributing that chemical substance in the article must, in accordance with 40 CFR 721.5(a)(2), notify customers that a chemical substance in the article is subject to a SNUR.

2. *Comment:* Two commenters suggested that SNURs should incorporate the requirements of 29 CFR 1910.134 the OSHA Respiratory Protection Standard. One of the commenters also stated that SNURs should be more explicit about following the requirements of OSHA regulations

including 29 CFR 1910.1200(h) the OSHA Hazard Communication Standard and 29 CFR 1910.120 the Hazardous Waste Operation and Emergency Response Standard.

*Response:* SNURs identify significant new uses for chemical substances under TSCA section 5(a)(2). The requirements of 40 CFR 721.63 (a)(4) already state that use of respirators must be according to OSHA's 29 CFR 1910.134, which includes language that engineering controls should be used as far as feasible to prevent exposures. For new chemical SNURs that identify new uses relating to establishing a written hazard communication standard according to 40 CFR 721.72, which includes one SNUR in this final rule, persons subject to the final rule may use the OSHA Hazard Communication Standard at 29 CFR 1910.1200 or another standard to comply with those significant new use requirements. EPA has identified significant new uses in this manner because it believes that its TSCA regulations do not supersede any applicable OSHA requirements. None of the SNURs in this final rule identify new uses relating to hazardous waste operation and emergency response.

3. *Comment:* The same two commenters also suggested that EPA should adopt the National Institute of Occupational Safety and Health (NIOSH) Recommended Exposure Limit (REL) of 1  $\mu\text{g}/\text{m}^3$  for carbon nanotubes (CNTs) as a New Chemical Exposure Limit (NCEL) for SNURs for carbon nanotubes.

*Response:* When establishing a NCEL or other alternative exposure control, EPA will consider all available data including U.S. government policies and practices used to set occupational exposure limits. Because of the uncertainty surrounding the NIOSH REL of 1  $\mu\text{g}/\text{m}^3$  (as NIOSH noted in its final CNT bulletin, the REL is based on the current analytical limit of quantification and may not be preventative of all known health effects; see: <http://www.cdc.gov/niosh/docs/2013-145/pdfs/2013-145.pdf>), EPA will not adopt the NIOSH REL as a NCEL at this time because EPA cannot determine that potential exposures at the REL may not present an unreasonable risk. EPA will consider the final NIOSH REL or other alternative exposure controls for CNTs if a submission requesting such is made under 40 CFR 721.30. This would allow the submitter to send to EPA data in support of a proposed exposure level and to demonstrate a technique to comply with that level. EPA would then evaluate the proposal and data as described in 40 CFR 721.30. See: <http://www.epa.gov/oppt/newchemicals/pubs/>

[consent-pdf/riskhhncel.pdf](http://www.epa.gov/oppt/newchemicals/pubs/ncelresp.pdf) and <http://www.epa.gov/oppt/newchemicals/pubs/ncelresp.pdf>, which, respectively, are EPA's boilerplate TSCA section 5(e) consent order containing a NCEL and EPA's Response to Comments on NCELS in TSCA section 5(e) consent orders. These two documents contain additional information on EPA's approach to NCELS and developing techniques to comply with those requirements.

4. *Comment:* One commenter stated that the proposed regulatory text language "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" and the language that respirators "meet the requirements of § 721.63(a)(4)" were confusing and that the second statement seemed to indicate that respirators alone were sufficient to address exposures. The commenter also suggested specific language changes to address that confusion and to incorporate use of an exposure limit.

*Response:* SNURs that require a significant new use notification where certain respiratory protection is not used only require respiratory protection when workers are reasonably likely to be exposed. Manufacturers and processors subject to the SNUR must first determine if workers are reasonably likely to be exposed. When making that determination, the proposed language directs them to consider feasible engineering or administrative controls similar to OSHA requirements at 29 CFR 1910.134. If workers are still reasonably likely to be exposed then the required respirators meet the requirements of 40 CFR 721.63(a)(4). Based on this explanation EPA does not think that the language is confusing or indicates that respirators alone are sufficient to address exposures. See also EPA's response to comment 10 regarding control measures. EPA has adopted a minor change adding the suggested italicized language by the commenter ". . . measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent or reduce exposure . . ." to make clearer that the requirements of 40 CFR 721.63(a)(4) are consistent with OSHA requirements. This change has been made in all SNURs in this rule with a "protection in the workplace" significant new use provision.

5. *Comment:* One commenter also suggested that EPA should establish criteria and procedures for selecting, installing, and evaluating the performance of engineering controls and for training workers to use the exposure controls.

*Response:* EPA requires personal protective equipment only for workers who are reasonably likely to be exposed, in order to prevent unreasonable risks. It should be noted that OSHA regulations only recommend but do not require specific engineering controls for existing chemical substances even when there are available methods for detecting those chemical substances and there are engineering controls known to prevent exposures. For new chemical substances, there is often no data on detection methods and limited data on which engineering controls prevent worker exposures in all situations. In addition, because new chemical substances have not previously been in commerce, there are no specific applicable exposure limits or protective equipment requirements under any other U.S. statute. EPA includes language in SNURs that require worker protection that also requires engineering controls and administrative controls where feasible. This requirement is consistent with OSHA regulations. EPA's approach at this time for evaluating engineering controls for chemical substances subject to SNURs are requests for alternative control measures—which includes requests to use the NCELS approach—as set out in 40 CFR 721.30.

6. *Comment:* One commenter suggested that EPA consider new toxicology studies identified by NIOSH (see: <http://blogs.cdc.gov/niosh-science-blog/2013/03/11/mwcnt>) for CNTs and consider whether these effects should be considered as part of toxicology studies for CNTs.

*Response:* EPA is reviewing those studies and will incorporate the findings of those studies to the extent appropriate when assessing the potential hazards of and when determining testing requirements and protocols for CNTs.

7. *Comment:* One commenter suggested that other SNURs that have already been issued and will be issued should also address the issue of hierarchy of controls. The commenter described the best measures of a hierarchy of controls as: process changes, followed by engineering controls such as enclosure and local exhaust ventilation, administrative practices, and finally, personal protective equipment. Another commenter suggested that EPA should

undertake an interagency process with OSHA and NIOSH to ensure that SNUR regulations are consistent with OSHA standards and NIOSH recommendations and then modify existing SNURs and develop a template for future SNURs through rulemaking.

*Response:* As EPA has previously stated in response to Comment 2, the requirements of 40 CFR 721.63(a)(4) already incorporate consideration of engineering controls when determining protection for workers from inhalation exposure as use of respirators must be according to OSHA 29 CFR 1910.134, which includes language that engineering controls should be used as far as feasible to prevent exposures. EPA has also added specific language to new SNURs to require engineering controls and administrative controls where feasible. EPA is currently in the process of developing revisions to existing SNUR regulations that will serve as a template for future SNURs and SNURs already issued. EPA will consult with NIOSH and OSHA during this process, as it has done previously when developing SNUR regulations for worker protection. These revisions would also be subject to public comments through notice and comment rulemaking.

8. *Comment:* One commenter requested that EPA not finalize the SNUR for P-08-392, which is the SNUR at 40 CFR 721.10648, until a request to modify the TSCA section 5(e) consent order for that PMN substance was completed because the proposed changes to the TSCA section 5(e) consent order would not be consistent with the terms of the proposed SNUR.

*Response:* After the comment was submitted, the PMN submitter withdrew the TSCA section 5(e) consent order modification request. Because the TSCA section 5(e) consent order modification is no longer being pursued by the PMN submitter and this chemical substance is on the TSCA Inventory, EPA is finalizing the SNUR as proposed. The terms of the SNUR are consistent with the TSCA section 5(e) consent order requirements.

9. *Comment:* The commenter stated that the requirements of the SNUR for PMN P-10-545 and P-10-546, which is the SNUR at 40 CFR 721.10648, were inconsistent with the TSCA section 5(e) consent order. The proposed SNUR requires notification if there is manufacturing, processing, or use in a non-enclosed process. The commenter suggested that EPA make the SNUR consistent with the TSCA section 5(e) consent order by eliminating the notification requirements for non-enclosed processes, and adding notification requirements in the SNUR if

the same respiratory protection requirements as in the TSCA section 5(e) consent order are not used. The commenter also suggested that EPA explicitly identify the use authorized under the TSCA section 5(e) consent order.

*Response:* EPA agrees that the requirements of the TSCA section 5(e) consent order and SNUR should be consistent. In the final SNUR EPA has removed the notification requirements for non-enclosed processes and has included the notification requirements where respiratory protection is not used. EPA has also identified the use authorized under the consent order in the final SNUR.

10. *Comment:* A commenter for the SNUR in 40 CFR 721.10643 requested that EPA expand on the completely reacted (cured) exemption in paragraph (a)(1) and that EPA include a *de minimis* exemption of 1.0% for worker protection requirements in paragraph (a)(2)(i). The commenter also asked EPA to clarify that the phrase “engineering control measures (e.g., enclosure or confinement of the operation, general and local exhaust ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible” means if proper engineering controls are used to prevent exposure that respiratory protection is not needed.

*Response:* The commenter did not supply any reason for the requested changes to the proposed SNUR. EPA will retain the completely reacted (cured) exemption language in paragraph (a)(1) as that language is consistent with the exemption language in the TSCA section 5(e) consent order that is the basis for the SNUR. EPA will add the *de minimis* exemption language for worker protection in paragraph (a)(2)(i), as that language is also consistent with the exemption in the TSCA section 5(e) consent order. If a manufacturer or processor can demonstrate that workers are not reasonably likely to be exposed by inhalation through the use of engineering controls, respiratory protection would not be required by the TSCA section 5(e) consent order and, similarly, significant new use notification for using the substance without respiratory protection would not be required.

11. *Comment:* One commenter stated that the PMN submitter of P-11-155, which is the chemical substance in the proposed SNUR in 40 CFR 721.10650, was in the process of conducting the recommended testing in the proposed SNUR to characterize the environmental

effects of the PMN substance. The commenter also stated that the results of an acute Daphnia study had already been submitted to and reviewed by EPA and that the acute fish study would be conducted according to a protocol already reviewed by EPA. The commenter requested that EPA withdraw the proposed rule for 40 CFR 721.10650 and await the test results before deciding whether to propose a SNUR.

*Response:* Because the recommended environmental toxicity testing is being conducted, EPA will not finalize the proposed SNUR at this time, but will decide on any further action at a later date based on test data results.

12. *Comment:* EPA received five comments that supported the final rule, one comment that did not support any regulation, and one comment that wanted more regulation of toxic chemical substances in general. Some of the comments supporting the final rule discussed advantages and disadvantages of the SNUR rules and TSCA.

*Response:* Because all of these comments did not address specific requirements of the proposed SNURs, EPA is not responding to them and is not making any changes to the SNURs as proposed.

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

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the final rule.

Any person who began commercial manufacture or processing of the specific chemical substances for any of the significant new uses designated in the proposed rule after the date of publication of the proposed rule must stop that activity before the effective date of this final rule. Persons who ceased those activities will have to meet all applicable SNUR notice requirements and wait until the end of the notice review period, including any extensions, before engaging in any activities designated as significant new uses.

EPA has promulgated provisions to allow persons to comply with these SNURs before the effective date. If a person were to meet the conditions of advance compliance under 40 CFR 721.45(h), the person would be considered to have met the requirements of this final SNUR for those activities.

## VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, 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 (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing.

In the TSCA section 5(e) consent orders for 17 of the chemical substances regulated under this final rule, EPA has established restrictions 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 restrictions will not be removed until EPA determines that the unrestricted use will not present an unreasonable risk of injury or result in significant or substantial exposure or environmental release. This determination is usually made based on the results of the required or recommended toxicity tests.

In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. of the proposed rule lists tests required or recommended in each of the TSCA section 5(e) consent orders underlying the proposed TSCA section 5(e) SNURs, and lists tests recommended for the chemical substances subject to the proposed TSCA non-section 5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

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.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

## VIII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice 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 721.25 and 720.40. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

## IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances during the development of the direct final rule. EPA's complete Economic Analysis is available in the docket under docket ID number EPA–HQ–OPPT–2012–0727.

## X. Statutory and Executive Order Reviews

### A. Executive Order 12866

This final rule establishes SNURs for several new chemical substances that were the subject of PMNs and, in some cases, a TSCA section 5(e) consent order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993).

### B. Paperwork Reduction Act

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 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 final rule. 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 requirements related to this action have already been approved by OMB pursuant to 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 through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (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

On February 18, 2012, EPA certified pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUN submitted by any small entity would not cost significantly more than \$8300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit IX, and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than \$8300. Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

**D. Unfunded Mandates Reform Act**

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 final rule. As such, EPA has determined that this final rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect 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).

**E. Executive Order 13132**

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, entitled "Federalism" (64 FR 43255, August 10, 1999).

**F. Executive Order 13175**

This final rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule 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, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), do not apply to this final rule.

**G. Executive Order 13045**

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.

**H. Executive Order 13211**

This action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (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**

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.

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).

**XI. Congressional Review Act (CRA)**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 final rule 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: August 20, 2014.

**Maria J. Doa,**

*Director, Chemical Control Division, 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. The table in § 9.1 is amended by adding the following sections 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.		
*	*	*	*	*
<b>Significant New Uses of Chemical Substances</b>				
*	*	*	*	*
721.10637 .....				2070–0012
721.10638 .....				2070–0012
721.10639 .....				2070–0012
721.10640 .....				2070–0012
721.10641 .....				2070–0012
721.10642 .....				2070–0012
721.10643 .....				2070–0012
721.10644 .....				2070–0012
721.10645 .....				2070–0012
721.10646 .....				2070–0012
721.10647 .....				2070–0012
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721.10654 .....				2070–0012
721.10655 .....				2070–0012
721.10656 .....				2070–0012
721.10657 .....				2070–0012
721.10658 .....				2070–0012
721.10659 .....				2070–0012
721.10660 .....				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 § 721.10637 to subpart E to read as follows:

**§ 721.10637 Substituted picolinate (generic).**

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

(1) The chemical substance identified generically as substituted picolinate (PMN P-00-835) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=90).

(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), (b), (c), 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.

■ 5. Add § 721.10638 to subpart E to read as follows:

**§ 721.10638 Lithium metal phosphate (generic).**

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

(1) The chemical substance identified generically as lithium metal phosphate (PMN P-02-167) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), 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.

■ 6. Add § 721.10639 to subpart E to read as follows:

**§ 721.10639 Siloxanes and Silicones, di-Me, polymers with Ph silsesquioxanes, hydrolyzed, reaction products with 2-[[3-(trimethoxysilyl)propoxy]methyl]oxirane.**

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

(1) The chemical substance identified as

siloxanes and silicones, di-Me, polymers with Ph silsesquioxanes, hydrolyzed, reaction products with 2-[[3-(trimethoxysilyl)propoxy]methyl]oxirane (PMN P-02-668; CAS No. 478823-10-8) 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)(2)(i), (a)(3), (a)(4), (a)(6)(v), (b) (concentration set at 0.1 percent), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), (e), 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.

■ 7. Add § 721.10640 to subpart E to read as follows:

**§ 721.10640 1,2-Cyclohexanedicarboxylic acid, 1-(2-ethylhexyl) 2-(2-methylpropyl) ester.**

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

(1) The chemical substance identified as 1,2-cyclohexanedicarboxylic acid, 1-(2-ethylhexyl) 2-(2-methylpropyl) ester (PMN P-03-135; CAS No. 252958-29-5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1)

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), 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.

■ 8. Add § 721.10641 to subpart E to read as follows:

**§ 721.10641 Phenol and vinyltoluene based hydrocarbon resin (generic).**

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

(1) The chemical substance identified generically as phenol and vinyltoluene based hydrocarbon resin (PMN P-03-255) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), 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.

■ 9. Add § 721.10642 to subpart E to read as follows:

**§ 721.10642 Modified polyisocyanates (generic).**

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

(1) The chemical substances identified generically as modified polyisocyanates (PMNs P-03-762 and P-03-763) are 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)(2)(i), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (o), and (y)(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), (b), (c), (d), (e), and (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.

■ 10. Add § 721.10643 to subpart E to read as follows:

**§ 721.10643 Diisocyanate terminated polycarbodiimide (generic).**

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

(1) The chemical substance identified generically as diisocyanate terminated polycarbodiimide (PMN P-04-640) 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 PMN substance that have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(3), (a)(4), and (a)(6)(ii). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (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 or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece with an assigned protection factor (APF) of at least 2,000 meets the minimum requirements § 721.63(a)(4). As an alternative to the respiratory

requirements listed here, a manufacturer or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 0.05 milligram/meter cubed (mg/m<sup>3</sup>). Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding TSCA section 5(e) consent order.

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (f), (g)(1)(i), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv) (use respiratory protection or maintain airborne concentrations at or below an 8-hour time-weighted average of 0.05 mg/m<sup>3</sup>), (g)(2)(v), and (g)(5).

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

(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.

■ 11. Add § 721.10644 to subpart E to read as follows:

**§ 721.10644 Reaction product of aluminum hydroxide and modified alkoxysilane (generic).**

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

(1) The chemical substance identified generically as reaction product of aluminum hydroxide and modified alkoxysilane (PMN P-07-553) 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)(4), (a)(6)(i), (b) (concentrations set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an

assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (100,000 kilograms).

(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), (b), (c), (d), 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.

■ 12. Add § 721.10645 to subpart E to read as follows:

**§ 721.10645 Multi-walled carbon nanotube (generic) (P-08-0392).**

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

(1) The chemical substance identified generically as multi-walled carbon nanotube (PMN P-08-392) 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 PMN substance that have been completely reacted (cured); incorporated or embedded into a polymer matrix that itself has been completely reacted (cured); or embedded in a permanent solid polymer form that is not intended to undergo further processing except for mechanical processing.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), and (a)(6) (particulate, including

solids or liquid droplets). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (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 or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100 filters with an assigned protection factor (APF) of at least 50 meet the minimum requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (q) (within 18 months of commencing non-exempt commercial manufacture).

(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), (b), (c), (d), (e), 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.

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

■ 13. Add § 721.10646 to subpart E to read as follows:

**§ 721.10646 Multi-wall carbon nanotubes (generic) (P-09-257).**

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

(1) The chemical substance identified generically as multi-wall carbon nanotubes (PMN P-09-257) 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 PMN substance that have been completely reacted (cured); incorporated or embedded into a polymer matrix that itself has been completely reacted (cured); embedded in a permanent solid polymer form that is not intended to undergo further processing except for mechanical processing; or incorporated into an article as defined at § 721.3(c).

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(2)(ii), (a)(3),

(a)(4), and (a)(6) (particulate, including solids or liquid droplets). When determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1) and (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 or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100 filters with an assigned protection factor (APF) of at least 50 meets the minimum requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f), (k), and (q).

(iii) *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), (b), (c), (d), (e), (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)(ii) of this section.

■ 14. Add § 721.10647 to subpart E to read as follows:

**§ 721.10647 Multi-walled carbon nanofibers (generic).**

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

(1) The chemical substance identified generically as multi-walled carbon nanofibers (PMNs P-10-115, P-10-116, P-10-117, P-10-118, P-10-119, P-10-120, P-10-121, P-10-122, P-10-123, P-10-124, P-10-125, and P-10-126) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substances after they have been completely reacted (cured); incorporated or embedded into a polymer matrix that itself has been reacted (cured); embedded into a permanent solid polymer form that is not intended to undergo further processing except for 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), (a)(2)(i), (a)(2)(ii), (a)(3), (a)(4), and (a)(6)(i). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (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 or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100 filters with an assigned protection factor (APF) of at least 50 meets the minimum requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (electrical and thermal conductivity additive in encapsulated thermoplastics, thermosets, elastomers, glass, metals, and ceramics; mechanical reinforcement additive in encapsulated thermoplastics, thermosets, elastomers, glass, metals, and ceramics; energy storage additive; or chemical intermediate), (l), and (q).

(iii) *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), (b), (c), (d), (e), (i), and (k) 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)(ii) of this section.

■ 15. Add § 721.10648 to subpart E to read as follows:

**§ 721.10648 Modified lithium iron phosphates (generic).**

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

(1) The chemical substances identified generically as modified lithium iron phosphates (PMNs P-10-545 and P-10-546) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substances after they have been completely reacted (cured), embedded

or incorporated into a polymer matrix that has been reacted (cured), or embedded in a permanent solid polymer form that is not intended to undergo further processing, except mechanical.

(2) The significant new uses are:

(i) *Protection in the workplace.*

Requirements as specified in § 721.63(a)(4) and (a)(6)(i). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (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 or reduce exposure, where feasible. A National Institute for Occupational Safety and Health (NIOSH)-certified air-purifying, tight-fitting full-face respirator equipped with N100 cartridges meets the minimum requirements of § 721.63(a)(4).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (battery electrode components, contained use) and (q).

(iii) *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), (b), (c), (i), and (k) 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)(i) of this section.

■ 16. Add § 721.10649 to subpart E to read as follows:

**§ 721.10649 MDI modified polyalkylene glycol adipate polyester (generic).**

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

(1) The chemical substance identified generically as MDI modified polyalkylene glycol adipate polyester (PMN P-11-115) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 17. Add § 721.10651 to subpart E to read as follows:

**§ 721.10651 Carbide derived nanocarbon (generic).**

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

(1) The chemical substance identified generically as carbide derived nanocarbon (PMN P-11-290) 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.* Requirements as

specified in § 721.80(j) (manufacture of the substance by the method described in the premanufacture notice).

(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), (b), (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.

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

■ 18. Add § 721.10652 to subpart E to read as follows:

**§ 721.10652 Hexanedioic acid, polymer with polyether polyol, 1,1'-methylenebis[4-isocyanatobenzene] and dihydroxydialkyl ether (generic).**

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

(1) The chemical substance identified generically as hexanedioic acid, polymer with polyether polyol, 1,1'-methylenebis[4-isocyanatobenzene] and dihydroxydialkyl ether (PMN P-11-309) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a

loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 19. Add § 721.10653 to subpart E to read as follows:

**§ 721.10653 Hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (generic).**

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

(1) The chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (PMN P-09-311) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at

least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 20. Add § 721.10654 to subpart E to read as follows:

**§ 721.10654 Hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (generic).**

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

(1) The chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[isocyanatobenzene], dihydroxydialkyl ether and dialkanol ether (PMN P-11-312) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 21. Add § 721.10655 to subpart E to read as follows:

**§ 721.10655 Hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether, reaction products with dialkylcarbinol (generic).**

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

(1) The chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro.-omega.-hydroxypoly[oxy(methyl-1,2-ethanediy)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl

ether, reaction products with dialkylcarbinol (PMN P-11-313) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 22. Add § 721.10656 to subpart E to read as follows:

**§ 721.10656 Hexanedioic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether reaction products with dialkylcarbinol (generic).**

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

(1) The chemical substance identified generically as hexanedioic acid, polymer with .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],1,1'-methylenebis[4-isocyanatobenzene], dihydroxydialkyl ether reaction products with dialkylcarbinol (PMN P-11-314) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b)(concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 23. Add § 721.10657 to subpart E to read as follows:

**§ 721.10657 Castor oil, polymer with hydrogenated vegetable oil, 1,1'-methylenebis[isocyanatobenzene] and isocyanate (generic).**

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

(1) The chemical substance identified generically as castor oil, polymer with hydrogenated vegetable oil, 1,1'-methylenebis[isocyanatobenzene] and isocyanate (PMN P-12-73) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 24. Add § 721.10658 to subpart E to read as follows:

**§ 721.10658 2-Oxepanone, polymer with 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol and 2,2'-oxybis[ethanol].**

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

(1) The chemical substance identified as 2-oxepanone, polymer with 1,6-diisocyanatohexane, 2,2-dimethyl-1,3-propanediol and 2,2'-oxybis[ethanol] (PMN P-12-133; CAS No. 1313708-90-5) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a

tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 25. Add § 721.10659 to subpart E to read as follows:

**§ 721.10659 Poly(oxy-1,4-butanediyl), -hydro-hydroxy-, polymer with alkyldiisocyanates (generic).**

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

(1) The chemical substance identified generically as poly(oxy-1,4-butanediyl), -hydro-hydroxy-, polymer with alkyldiisocyanates (PMN P-12-143) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

■ 26. Add § 721.10660 to subpart E to read as follows:

**§ 721.10660 Aliphatic diisocyanate adduct with substituted amino alkyl silane (generic).**

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

(1) The chemical substance identified generically as aliphatic diisocyanate adduct with substituted amino alkyl silane (PMN P-12-274) 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)(4), (a)(6)(i), (a)(6)(ii), (a)(6)(v), (b) (concentration set at 0.1 percent), 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 or reduce exposure, where feasible. The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator

equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters;

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters;

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters; and

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

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

(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), (b), (c), (d), 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.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2014-0589; FRL-9916-04-Region-9]

#### Finding of Failure To Submit a Prevention of Significant Deterioration State Implementation Plan Revision for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>); California; North Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finding that the North Coast Air Quality Management District (NCAQMD or District), located in California, has not made a necessary Prevention of Significant Deterioration (PSD) State Implementation Plan (SIP) submission to address the PSD permitting of PM<sub>2.5</sub> emissions, as required by the Clean Air Act (CAA). Specifically, the EPA is determining that NCAQMD has not submitted a SIP

revision to address the PM<sub>2.5</sub> PSD increments and implementing regulations as promulgated by EPA on October 20, 2010. The deadline for the District to make the required submittal was July 20, 2012. The CAA requires EPA to promulgate a Federal Implementation Plan (FIP) to address the outstanding PSD SIP elements by no later than 24 months after the effective date of this finding. EPA is making this finding in accordance with section 110 and part C of the CAA.

**DATES:** The effective date of this rule is October 2, 2014.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, Air Division (Air-3), Environmental Protection Agency, Region 9, 75 Hawthorne St, San Francisco, CA 94105. By phone at (415) 972-3534 or by email at [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedures Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions to meet the requirement. No additional fact gathering is necessary. Thus, notice and public procedure are unnecessary. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the CAA for making such determinations. EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994). The EPA finds that these constitute good cause under 5 U.S.C. 553(b)(B).

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

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### I. Background and Overview

#### A. Overview of Relevant PM NAAQS Requirements

The EPA initially established National Ambient Air Quality Standards (NAAQS) for particulate matter (PM) under section 109 of the CAA in 1971. Since then, the EPA has made a number of changes to these standards to reflect continually expanding scientific information. The history of the PM<sub>2.5</sub> NAAQS is briefly summarized below.

- In July 1997, new PM NAAQS were added, using PM<sub>2.5</sub> as the indicator for fine particles. The EPA’s PM<sub>10</sub> standards were retained for the purpose of regulating the coarse fraction of PM<sub>10</sub>. The EPA established two new PM<sub>2.5</sub> standards: an annual standard of 15 µg/m<sup>3</sup>, based on the 3-year average of annual arithmetic mean PM<sub>2.5</sub> concentrations from single or multiple monitors sited to represent community-wide air quality and a 24-hour standard of 65 µg/m<sup>3</sup>, based on the 3-year average of the 98th percentile of 24-hour PM<sub>2.5</sub> concentrations at each population-oriented monitor within the area.

- On October 17, 2006, the EPA promulgated revisions to the NAAQS for PM<sub>2.5</sub> and PM<sub>10</sub> with an effective date of December 18, 2006 (71 FR 61144). We lowered the 24-hour NAAQS for PM<sub>2.5</sub> from 65 µg/m<sup>3</sup> to 35 µg/m<sup>3</sup>, and retained the existing annual PM<sub>2.5</sub> NAAQS of 15 µg/m<sup>3</sup>. In addition, we retained the existing PM<sub>10</sub> 24-hour NAAQS of 150 µg/m<sup>3</sup>, and revoked the annual PM<sub>10</sub> NAAQS (set at 50 µg/m<sup>3</sup>).

- On January 15, 2013, the EPA promulgated revisions to the NAAQS for PM<sub>2.5</sub> and PM<sub>10</sub> with an effective date of March 18, 2013 (78 FR 3086). We lowered the annual standard for PM<sub>2.5</sub> to 12 µg/m<sup>3</sup> and retained the 24-hour PM<sub>2.5</sub> standard at the level of 35 µg/m<sup>3</sup>. For PM<sub>10</sub>, the EPA retained the current 24-hour PM<sub>10</sub> primary and secondary standards.

#### B. Revisions to the PSD Program to Implement the PM<sub>2.5</sub> NAAQS

To implement the PM<sub>2.5</sub> NAAQS for PSD purposes, EPA issued two separate final rules that establish the New Source Review (NSR) permitting requirements for PM<sub>2.5</sub>: the NSR PM<sub>2.5</sub> Implementation Rule promulgated on May 16, 2008 (73 FR 28321), and the PM<sub>2.5</sub> PSD Increments—Significant Impact Levels (SILs)—Significant