



BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 721**

**[EPA-HQ-OPPT-2019-0614; FRL-10004-51]**

**RIN 2070-AB27**

### **Modification of Significant New Uses of Certain Chemical Substances**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the significant new use rules (SNURs) for chemical substances, which were the subject of a premanufacture notice (PMN) and a significant new use notice (SNUN). This action would amend the SNURs to allow certain new uses reported in the SNUNs without additional notification requirements and modify the significant new use notification requirements based on the actions and determinations for the SNUN submissions. EPA is proposing this amendment based on review of new and existing data for the chemical substances.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2019-0614, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

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

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

## **SUPPLEMENTARY INFORMATION:**

### **I. General Information**

#### *A. Does this Action Apply to Me?*

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

- Manufacturers or processors of the chemical substance (NAICS codes 325 and 324110),

e.g., chemical manufacturing and petroleum refineries.

This proposed rule may affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28 and must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to a SNUR must certify their compliance with the SNUR requirements. Any person who exports or intends to export the chemical substance that is the subject of a final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

## **II. Background**

*A. What Action is the Agency Taking?*

EPA is proposing amendments to the SNURs for chemical substances in 40 CFR part 721, subpart E. A SNUR for a chemical substance designates certain activities as a significant new use. Persons who intend to manufacture or process the chemical substance for the significant new use must notify EPA at least 90 days before commencing that activity. The required notification would initiate EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use would be unable to commence until EPA conducted a review of the notice, made an appropriate determination on the notice, and took such actions as are required with that determination.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors and may issue or modify a TSCA section 5(e) Order and/or amend the SNUR promulgated under TSCA section 5(a)(2). Procedures and criteria for modifying or revoking SNUR requirements appear at 40 CFR 721.185.

**III. Significant New Use Determination**

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

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

distribution in commerce, and disposal of a chemical substance.

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

#### **IV. Substances Subject to this Proposed Significant New Use Rule Amendment and Proposed Changes**

EPA is proposing to amend the significant new use and recordkeeping requirements for chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

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

**PMN P-95-169; SNUN S-08-7; SNUN S-14-1; and SNUN S-17-10.**

*Chemical name:* 2-Propen-1-one, 1-(4-morpholinyl)-.

*CAS number:* 5117–12–4.

*Federal Register publication date and reference:* Jan. 5, 2000 (65 FR 354) (FRL–6055–2), amended May 13, 2011 (76 FR 27910) (FRL–8871–5), and amended June 30, 2015, (80 FR 37165) (FRL-9928-93).

*Basis for the modified significant new use rule:* P–95–169 is used as a diluent for ultraviolet and electron beam curable resins for coatings, inks, and curable adhesives, S–14–1 is used as a monomer in ultraviolet ink jet applications and S–08–7 is used in energy production. The proposed SNUR modification of April 9, 2015, (80 FR 19037) (FRL-9924-10) contains the basis of the current SNUR codified at 40 CFR 721.5185.

On June 12, 2017, EPA received a SNUN (S-17-10) involving the chemical substance for use as a monomer for use in stereolithography. The 90-day review period for the SNUN expired on February 6, 2018 and a TSCA section 5(e) Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the use may present an unreasonable risk of injury to human health and the environment. EPA identified concerns, based on acute toxicity, neurotoxicity, eye irritation, sensitization, liver toxicity, and aquatic toxicity test data for the chemical substance. In addition to the dermal protection, hazard communication, use, and water release notification requirements under the SNUR, the TSCA section 5(e) Order for S-17-10 required respirators to prevent inhalation exposure during the use of the chemical substance as a monomer in stereolithography. The proposed amendment would remove the use described in the SNUN from the scope of the significant new use, except where that use does not include the protective measures described in the TSCA section 5(e) Order for S-17-10.

*Potentially Useful Information:* Certain information may be potentially useful to characterize the

health and environmental effects of the chemical substance in support of a request to modify the TSCA section 5(e) Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The results of specific organ toxicity and aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substance

*CFR citation:* 40 CFR 721.5185.

**PMN P-10-136 and SNUN S-18-5.**

*Chemical names:* (P-10-136, Chemical A) Butanoic acid, 3-mercapto-,1,1'-[2,2-bis[(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (generic) and (P-10-136, Chemical B) Butanoic acid, 3-mercapto-,1,1'-[2-(hydroxymethyl)-2-(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (generic).

*CAS numbers:* Not Available.

*Federal Register publication date and reference:* Apr. 27, 2012, (77 FR 25236) (FRL-9343-4).

*Basis for the modified significant new use rule:* P-10-136 states that the chemical substances will be used as a monomer for acryl-based ultra-violet (UV)-curing coatings, inks, and adhesives. A SNUR was issued based on meeting the concern criteria at 40 CFR 721.170(b)(3)(i) and (b)(4)(i). EPA identified concerns for systemic toxicity, mutagenic effects, dermal sensitization and neurotoxicity, based on test data on the PMN substances. The SNUR required notification for domestic manufacture; for use other than as a monomer for acryl-based ultra-violet (UV)-curing coatings, inks, and adhesives; and for manufacturing, processing or use resulting in releases to surface waters exceeding 2 ppb.

On August 16, 2018, EPA received S-18-5 for the generic (non-confidential) use as a monomer for industrial adhesives, coatings and inks. The 90-day review period expired on

September 25, 2019. Based on the activities described in the SNUN, EPA determined under TSCA section 5(a)(3)(C) that the use is not likely to present an unreasonable risk. The modified SNUR would retain the existing notification requirements and remove the new use described in S-18-5 from the scope of the significant new use.

*Potentially Useful Information:* Certain information may be potentially useful to characterize the health and environmental effects of the chemical substances if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The results of specific target organ toxicity and aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substances.

*CFR citations:* 40 CFR 721.10371 and 40 CFR 721.10372.

**PMN P-12-44; SNUN S-18-4; and SNUN S-19-5.**

*Chemical name:* Functionalized multi-walled carbon nanotubes (generic).

*CAS number:* None.

*Federal Register publication date and reference:* May 9, 2013, (78 FR 27056) (FRL-9384-8).

*Basis for the modified significant new use rule:* The generic (non-confidential) use for P-12-44 is an additive for rubber and batteries. The SNUR was issued based on meeting the concern criteria at 40 CFR 721.170(b)(3)(ii) and (b)(4)(ii). EPA identified concerns for lung effects to workers exposed to the PMN substance and for sublethal effects in fish at levels at 100 ppb. The SNUR required notification if the chemical substance was used other than for the confidential use described in the PMN, for manufacturing, processing or use as a powder, and for manufacturing, processing or use resulting in releases to surface waters.

On May 14, 2018, EPA received a SNUN, S-18-4 for the chemical substance for use as a chemical additive in epoxy compounds for transportation, marine and industrial coatings, paints

and manufactured goods. The 90-day review period for the SNUN expired on February 22, 2019. Based on the activities described in the SNUN, an Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on determinations under sections 5(a)(3)(B)(i) and 5(e)(1)(A)(i) of TSCA that the use may present an unreasonable risk of injury to human health, and the information available to the Agency is insufficient to permit a reasoned evaluation of the environmental effects. EPA identified concerns for lung effects, carcinogenicity, immunotoxicity, and thymus toxicity.

Due to potential worker exposures, the TSCA Order for S-18-4 allows the use of the chemical substance as a chemical additive for use in epoxy compounds for transportation, marine and industrial coatings, paints and manufactured goods and requires personal protective equipment including respirators to prevent dermal and inhalation exposure. The TSCA Order also retains the same requirements as the SNUR for no water release, for no manufacturing, processing or use as a powder, and allowing the confidential use described in PMN P-12-44.

On May 20, 2019 EPA received a SNUN, S-19-5 for the chemical substance from the same submitter as S-18-4 for use in conductive ink. The 90-day review period for the SNUN expired on August 9, 2019. Based on the activities described in the SNUN, including the requirements of the TSCA Order for S-18-4, EPA determined under TSCA section 5(a)(3)(C) that the use is not likely to present an unreasonable risk. EPA modified the TSCA Order for S-18-4 to allow the use described in the SNUN.

The proposed amendment would (1) remove the new uses described in SNUN S-19-5 from the scope of the significant new use and (2) remove the new uses described in SNUN S-18-4 from the scope of the significant new use except where that use does not include the protective measures described in the TSCA Order for S-18-4.

*Potentially Useful Information:* Certain information may be potentially useful to characterize the health and environmental effects of the chemical substance in support of a request to modify the TSCA section 5(e) Order, or if a manufacturer or processor is considering submitting a SNUN. The results of particle size information, specific organ toxicity, carcinogenicity, and acute and chronic aquatic toxicity testing would help characterize the potential health and environmental effects of the chemical substance.

*CFR citation:* 40 CFR 721.10663.

**PMN P-12-0292; PMN P-17-217; and SNUN S-19-4.**

*Chemical name:* Coke (coal), secondary pitch; a carbon-containing residue from the coking of air blown pitch coke oil and/or pitch distillate; composed primarily of isotropic carbon, it contains small amounts of sulfur and ash constituents.

*CAS number:* 94113-91-4.

*Federal Register publication date and reference:* November 17, 2016 (81 FR 81264) (FRL-9953-41).

*Basis for the modified significant new use rule:* P-12-292 states the generic (non-confidential) use of the chemical substance is in the carbon graphite industry. The SNUR issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), was based on the chemical substance may present an unreasonable risk of injury to human health. EPA identified concerns for lung effects and cancer to workers exposed to the substance via inhalation based on SAR analysis of test data on analogous respirable, poorly soluble particulates, in the carbon black. The SNUR required notification for use without the personal protective equipment, including a NIOSH-certified respirator with an APF of at least 50 or compliance with a New Chemicals Exposure Limit (NCEL) of 0.0025 mg/m<sup>3</sup>; use without establishment and use of a hazard communication

program; domestic manufacture; use other than the confidential use specified in the TSCA Order; and exceeding an aggregate confidential production volume limit.

On January 19, 2017, EPA received PMN P-17-217 for the same chemical substance for use as an additive to increase the porosity in the manufacture of diesel particulate filters. The 90-day review period for the PMN expired on July 4, 2017. Based on the activities described in the PMN, an Order was issued under TSCA sections 5(a)(3)(B)(ii)(I) and 5(e)(1)(A)(ii)(I), based on a determination that the chemical substance may present an unreasonable risk of injury to human health. In addition to the restrictions identified for the SNUR, the TSCA Order for P-17-217 did not allow processing or use of the chemical substance involving an application method that generates a dust, vapor, mist, or aerosol; permitted use as an additive for diesel particulate filters manufacture to increase the porosity of the filter material for export only (i.e., no use of the additive formulation within the United States); and required certain testing before exceeding an aggregate production volume limit of 2,500,000 kilograms.

On June 4, 2019, EPA received a SNUN, S-19-4 for use of the chemical substance as a lubricating agent in the production of automotive disc brakes. The 90-day review period for the SNUN expired on September 13, 2019. Based on the activities described in the SNUN, EPA determined under TSCA section 5(a)(3)(C) that the use is not likely to present an unreasonable risk.

The modified SNUR proposes to designate as a “significant new use” processing or use of the chemical substance involving an application method that generates a dust, vapor, mist, or aerosol, exceeding an aggregate production volume of 2,500,000 kilograms, and to allow the uses described in P-17-217 and S-19-4. It would also be a significant new use to use the substance in an additive formulation to produce diesel particulate filters within the United States.

*Potentially Useful Information:* Certain information may be potentially useful to characterize the health effects of the chemical substance in support of a request to modify the TSCA section 5(e) Order, or if a manufacturer or processor is considering submitting a SNUN for a significant new use that would be designated by this proposed SNUR. The results of pulmonary toxicity and carcinogenicity testing would help characterize the potential health effects of the chemical substance.

*CFR citation:* 40 CFR 721.10928.

## **V. Rationale for the Proposed Rule**

In those instances where EPA expanded the scope of the significant new use, the Agency identified concerns, as discussed in Unit IV., associated with certain uses that are not current. EPA determined that those uses could result in changes in the type or form of exposure to the chemical substance and/or increased exposures to the chemical substance and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substance, in addition to considering the factors discussed in Unit IV.

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

To establish a significant new use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses that are not currently a significant new use under the current rule, but which would be regulated as a “significant new use” if this proposed rule is finalized are ongoing. These specific new uses are processing or use involving an application method that generates a dust, vapor, mist, or aerosol or exceeding an aggregate production volume of 2,500,000 kilograms for the SNUR for 40 CFR 721.10928, worker protection

requirements for the SNUR for 40 CFR 721.10663, and the additional worker protection requirements for inhalation exposure for the SNUR for 40 CFR 721.5185. EPA designates [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] as the cutoff date for determining whether the new use is ongoing. 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 public release of the proposed SNUR rather than as of the effective date of the final rule. If uses begun after public release 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 proposed significant new use before the rule became effective, and then argue that the use was ongoing as of the effective date of the final rule.

Thus, any persons who begin commercial manufacture or processing activities with the chemical substance that are not currently a significant new use under the current rule but which would be regulated as a “significant new use” if this proposed rule is finalized, must cease any such activity as of the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

## **VII. Development and Submission of Information**

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

In the absence of a rule, order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known or reasonably ascertainable (40 CFR 720.50). Unit IV. lists potentially useful information for all SNURs in this rule. Descriptions of this information are provided for informational purposes. The potentially useful information identified in Unit IV. will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance, which may assist with EPA's analysis of the SNUN.

EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing on vertebrate animals, EPA encourages dialog with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information listed in Unit IV. may not be the only means of providing information to evaluate the chemical substance. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

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

- Human exposure and environmental release that may result from the significant

new use of the chemical substances.

### **VIII. SNUN Submissions**

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E-PMN software is available electronically at <https://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 subject to this proposed rule. The EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2019-0614.

### **X. Statutory and Executive Order Reviews**

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

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

This proposed rule would modify SNURs for chemical substances that were the subject of a PMN and a SNUN. 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 (PRA)*

According to the PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under 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 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, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

*C. Regulatory Flexibility Act (RFA)*

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this proposed SNUR would not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a “significant new use.” Because these uses are “new,” based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA’s experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$16,000 to \$2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about \$10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this proposed SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal**

**Register** of June 2, 1997 (62 FR 29684) (FRL-5597-1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

*D. Unfunded Mandates Reform Act (UMRA)*

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

*E. Executive Order 13132: Federalism*

This action would 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: Consultation and Coordination with Indian Tribe Governments*

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor would 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 proposed rule.

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

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

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

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

*I. National Technology Transfer and Advancement Act (NTTAA)*

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

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

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

**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: March 10, 2020.

**Tala Henry,**

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

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

**PART 721--[AMENDED]**

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

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

2. Amend § 721.5185 by revising paragraphs (a)(1), (2)(i), and (2)(iii) to read as follows:

**§721.5185 2-Propen-1-one, 1-(4-morpholinyl)-.**

(a) \*\*\* (1) The chemical substance identified as 2-propen-1-one, 1-(4-morpholinyl)- (PMN P-95-169; SNUN S-08-7; SNUN S-14-1; and SNUN S-17-10 CAS No. 5117-12-4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the chemical substance after it has been completely reacted (cured) because 2-propen-1-one, 1-(4-morpholinyl)- will no longer exist.

(2) \* \* \*

(i) *Protection in the workplace.* Requirements as specified in §721.63(a)(1), (a)(2)(i), (a)(2)(iv), (a)(3)(i), (a)(3)(ii), (a)(4), (a)(6)(v), (b) (concentration set at 1.0 percent), and (c). Safety 4/4H EVOH/PE laminate, Ansell Edmont Neoprene number 865, and Solvex Nitrile Rubber number 275 gloves have been tested in accordance with the American Society for Testing Materials (ASTM) F739 method and found by EPA to satisfy the TSCA consent orders and § 721.63(a)(2)(i) requirements for dermal protection to 100 percent PMN substance. Gloves and other dermal protection may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift. For additional dermal protection materials, a company must submit all test data to the Agency and must receive written Agency approval for each type of material tested prior to use of that material as worker dermal

protection. However, for the purposes of determining the imperviousness of gloves, up to 1 year after the commencement of commercial manufacture or import, the employer may use the method described in §721.63(a)(3)(ii), thereafter, they must use the method described in §721.63(a)(3)(i). For use as a monomer for stereolithography: Requirements as specified in §721.63(a)(4), when determining which persons are reasonably likely to be exposed as required for §721.63(a)(4), engineering control measures (*e.g.*, enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.*, workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible, (a)(5)(respirators must provide a National Institute for Occupational Safety and Health assigned protection factor of at least 50), (a)(6)(v), and (c).

(ii) \* \* \*

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in §721.80(y)(1). It is a significant new use to use the chemical substance for any use other than as a monomer for use in ultraviolet ink jet applications or stereolithography, unless the chemical substance is processed and used in an enclosed process.

\* \* \* \* \*

3. Amend § 721.10371 by revising paragraphs (a)(1) and (2)(i) to read as follows:

**§721.10371 Butanoic acid, 3-mercapto-,1,1'-[2-(hydroxymethyl)-2-(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (generic).**

(a) \*\*\* (1) The chemical substance identified generically as butanoic acid, 3-mercapto-,1,1'-[2-(hydroxymethyl)-2-(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (PMN P-10-136 and S-18-5, Chemical A) is subject to reporting under this section for the significant new uses described in

paragraph (a)(2) of this section.

(2) \* \* \*

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in §721.80(f). It is a significant new use to use the substance other than as a monomer for acrylic-based ultra-violet (UV)-curing coatings, inks, and adhesives or the confidential use described in the significant new use notice S-18-5.

\* \* \* \* \*

4. Amend § 721.10372 by revising paragraphs (a)(1) and (2)(i) to read as follows:

**§721.10372 Butanoic acid, 3-mercapto-,1,1'-[2,2-bis[(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (generic).**

(a) \*\*\* (1) The chemical substance identified generically as butanoic acid, 3-mercapto-,1,1'-[2,2-bis[(substituted-1-oxoalkoxy)methyl]-1,3-propanediyl] ester (PMN P-10-136 and SNUN S-18-5, Chemical B) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) \* \* \*

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in §721.80(f). It is a significant new use to use the substance other than as a monomer for acrylic-based ultra-violet (UV)-curing coatings, inks, and adhesives, or the confidential use described in the SNUN S-18-5.

\* \* \* \* \*

5. Amend § 721.10663 by revising paragraphs (a)(1), (2)(i) and (ii) and (b)(1) to read as follows:

**§721.10663 Functionalized multi-walled carbon nanotubes (generic).**

(a) \*\*\* (1) The chemical substance identified generically as functionalized multi-walled carbon nanotubes (PMN P-12-44; SNUN S-18-4; and SNUN S-19-5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) \* \* \*

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3), (4), 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 exposure, where feasible, (a)(5)(respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor of at least 50, (a)(6)(particulate), (b)(concentration set at 1.0%), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in §721.80(v)(1), (w)(1), and (x)(1) It is a significant new use to use the substance other than as a chemical additive for use in epoxy compounds for transportation, marine and industrial coatings, paints and manufactured goods, for the confidential use described in PMN P-12-44, or for the confidential use described in SNUN S-19-5.

(b) \* \* \*

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

\* \* \* \* \*

6. Amend § 721.10928 by revising paragraphs (a)(1) and (2)(iii) to read as follows:

**§721.10928 Coke (coal), secondary pitch; a carbon-containing residue from the coking of**

**air blown pitch coke oil and/or pitch distillate; composed primarily of isotropic carbon, it contains small amounts of sulfur and ash constituents.**

(a) \*\*\* (1) The chemical substance identified as coke (coal), secondary pitch. Definition: A carbon-containing residue from the coking of air blown pitch coke oil and/or pitch distillate; composed primarily of isotropic carbon, it contains small amounts of sulfur and ash constituents (PMN P-12-292, PMN P-17-217, and SNUN S-19-4; CAS No. 94113-91-4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) \* \* \*

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in §721.80(f), (p)(2,500,000 kg), and (y)(1)(2). It is a significant new use to use the substance other than (I) for the confidential use permitted by the TSCA Order for P-12-292, (II) as a lubricating agent used in the production of automotive disc brakes, or (III) to process as an additive for the manufacture of diesel particulate filters to increase the porosity of the filter. It is a significant new use to use the substance in an additive formulation to produce diesel particulate filters within the United States.

\* \* \* \* \*

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