

Dated: March 1, 2002.

**William H. Sanders, III**

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

Therefore, 40 CFR part 721 is amended as follows:

#### **PART 721—[AMENDED]**

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

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

2. Section 721.4589 is amended as follows:

- a. By revising the section heading.
- b. By revising paragraphs (a)(1), (a)(2)(i), and (b)(1).
- c. By removing and reserving paragraph (a)(2)(ii).
- d. By removing paragraphs (a)(2)(iii), (a)(2)(iv), and (b)(3).

#### **§ 721.4589 Propanedioic acid, [(4-methoxyphenyl)methylene]-, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester (9CI).**

(a) \* \* \* (1) The chemical substance identified as propanedioic acid, [(4-methoxyphenyl)methylene]-, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester (9CI) (PMN P-95-1411; CAS No. 147783-69-5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) \* \* \*

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

(ii) [Reserved]

(b) \* \* \*

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

\* \* \* \* \*

3. Section 721.6175 is amended as follows:

- a. By revising the section heading.
- b. By revising paragraphs (a)(1), (a)(2)(i), and (b)(1).
- c. By adding paragraphs (a)(2)(ii), (a)(2)(iii), and (b)(3).

#### **§ 721.6175 2-Piperdinone, 1,3-dimethyl-,**

(a) \* \* \* (1) The chemical substance identified as 2-Piperdinone, 1,3-dimethyl-, (PMN P-97-520 and SNUN 00-397; CAS No. 1690-76-2) 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), (a)(2)(i), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72

(a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(iii), (g)(1)(iv), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (use or processing other than: in enclosed systems (such as hydrocarbon extraction, polymer synthesis, wire enamel resin); electronic industry cleaning solvent; and other precision industry cleaning (such as automobile manufacturing, aerospace, and optics)), (o), and (q).

(b) \* \* \*

(1) *Recordkeeping.* The recordkeeping requirements specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

\* \* \* \* \*

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

4. Section 721.6176 is amended as follows:

- a. By revising the section heading.
- b. By revising paragraphs (a)(1), (a)(2)(i), and (b)(1).
- c. By adding paragraphs (a)(2)(ii), (a)(2)(iii), and (b)(3).

#### **§ 721.6176 2-Piperdinone, 1,5-dimethyl-,**

(a) \* \* \* (1) The chemical substance identified as 2-Piperdinone, 1,5-dimethyl-, (PMN P-97-521 and SNUN 00-398; CAS No. 86917-58-0) 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), (a)(2)(i), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(iii), (g)(1)(iv), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (use or processing other than: in enclosed systems (such as hydrocarbon extraction, polymer synthesis, wire enamel resin); electronic industry cleaning solvent; and other precision industry cleaning (such as automobile manufacturing, aerospace, and optics)), (o), and (q).

(b) \* \* \*

(1) *Recordkeeping.* The recordkeeping requirements specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are

applicable to manufacturers, importers, and processors of this substance.

\* \* \* \* \*

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

[FR Doc. 02-6726 Filed 3-19-02; 8:45 am]

BILLING CODE 6560-50-S

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 721**

[OPPTS-50642A; FRL-6819-5]

RIN 2070-AB27

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

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

**ACTION:** Final rule.

**SUMMARY:** Under section 5(a)(2) of the Toxic Substances Control Act (TSCA) and 40 CFR 721.185, EPA is amending two significant new use rules (SNURs) to allow certain uses without requiring a significant new use notice (SNUN). EPA is amending these rules based on review of new toxicity and exposure data. The amended SNURs would continue to require a SNUN for new uses that may involve significant changes in human or environmental exposure

**DATES:** This final rule is effective on May 20, 2002.

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

For technical information contact: James Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-8974; e-mail address: alwood.jim@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. General Information**

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

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. Potentially

affected categories and entities may include, but are not limited to:

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in title 40 of the Code of Federal Regulations (CFR) at 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 721 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title\\_40/40cfr721\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr721_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS-50642A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information

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

## **II. Background**

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

The Agency proposed the modification of these SNURs in the **Federal Register** of August 16, 2001 (66 FR 42978) (FRL-6557-8). The background and reasons for the modification of each individual SNUR are set forth in the preamble to the proposed SNUR modification. The comment period closed on September 17, 2001. EPA received no comments regarding the SNUR for P-89-769 codified at 721.9480. Therefore EPA is issuing the modified SNUR.

EPA received one comment from the PMN submitter of P-95-4, who provided particle size data that was the basis for the proposed elimination of reporting requirements for respiratory protection when the particle size of the PMN substance is 250 microns or greater. The commenter stated that when the particle size of the substance is 250 microns or greater, exposed workers are not reasonably likely to be exposed to significant amounts of the PMN substance and that SNUR reporting provisions should not apply. EPA reviewed the available dermal toxicity data and determined that when the particle size of the substance is 250 microns or greater dermal exposures would not result in significant changes in human exposure. This determination was based on the fact that the dermal LD<sub>50</sub> of the substance is greater than 2,000 milligram/kilogram (mg/kg), the skin irritation study in rabbits for the substance showed no skin irritation and had a Draize irritation score of 0, indicative of a compound with no irritation potential to the skin, the skin sensitization study for the substance showed no reactions, and no dermal absorption of particles greater than 250

microns is expected. Therefore, EPA is issuing a modified final SNUR where no SNUR reporting requirements apply when the particle size of the substance is greater than 250 microns.

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

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2) of TSCA. Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.5.

During review of the PMNs submitted for the chemical substances that are the subject of this rule, EPA concluded that regulation was warranted based on available information that indicated activities not described in the TSCA section 5(e) consent order might result in significant changes in human or environmental exposure as described in section 5(a)(2) of TSCA. Based on these findings, SNURs were promulgated.

EPA has revoked the TSCA section 5(e) consent order for P-89-769 and has determined that modifying these SNURs would not result in significant changes in human or environmental exposure. The modification of SNUR provisions for these substances designated herein is consistent with the provisions of the TSCA section 5(e) consent order.

### *C. Applicability of General Provisions*

General provisions for SNURs appear under subpart A of 40 CFR part 721. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5 (h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the

activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret TSCA section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

### III. Regulatory Assessment Requirements

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

Based on EPA's experience with proposing and finalizing SNURs, State, local, and tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or tribal government will be impacted by this rulemaking. As such, EPA has determined that this regulatory action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001 do not apply to this rule. Nor will this action have a substantial direct effect on States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

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

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

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

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

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

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows. A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." By definition of the word "new," and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activity. Since a SNUR only requires that any person who

intends to engage in such activity in the future must first notify EPA by submitting a SNUN, no economic impact will even occur until someone decides to engage in those activities. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of over 530 SNURs, the Agency has received fewer than 15 SNUNs. Of those SNUNs submitted, none appear to be from small entities in response to any SNUR. In addition, the estimated reporting cost for submission of a SNUN are minimal regardless of the size of the firm. Therefore, EPA believes that the potential economic impact of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published on June 2, 1997 (62 FR 29684) (FRL-5597-1), the Agency presented its general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final rule and in addition to its display on any related collection instrument, are listed in 40 CFR part 9.

The information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a significant new use notice to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review and submit the required 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, OP Regulatory Information Division (2137), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 721

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

Dated: March 1, 2002.

**William H. Sanders, III**

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

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

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

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

2. Section 721.1925 is amended as follows:

- a. By revising the section heading.
- b. By revising paragraphs (a)(1) and (a)(2)(iii).
- c. By removing paragraph (b)(3).

#### **§ 721.1925 Substituted carboheterocyclic butane tetracarboxylate (generic).**

(a) \* \* \* (1) The chemical substance identified generically as substituted carboheterocyclic butane tetracarboxylate (PMNs P-90-440 and P-95-4) is subject to reporting under

this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply when particle sizes of the chemical substance is greater than 250 microns.

(2) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

3. Section 721.9480 is amended as follows:

- a. By revising the section heading.
- b. By revising paragraphs (a)(1), (a)(2)(i), and (b)(1).
- c. By removing and reserving paragraph (a)(2)(ii).
- d. By removing paragraphs (a)(2)(iii), (a)(2)(iv), (a)(2)(v), and (b)(3).

#### **§ 721.9480 Resorcinol, formaldehyde substituted carbomonocycle resin (generic).**

(a) \* \* \* (1) The chemical substance identified generically as resorcinol, formaldehyde substituted carbomonocycle resin (PMN P-89-769) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) \* \* \*

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

(ii) [Reserved]

(b) \* \* \*

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

\* \* \* \* \*

[FR Doc. 02-6725 Filed 3-19-02; 8:45 am]

BILLING CODE 6560-50-S

#### DEPARTMENT OF THE INTERIOR

##### Office of the Secretary

#### 43 CFR Part 35

RIN 1090-AA80

#### Change of Address for Office of Hearings and Appeals; Correction

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Final rule; correction.

**SUMMARY:** In the January 30, 2002, **Federal Register**, the Department of the Interior published a revision to its regulations governing administrative appeals to reflect a change of address for the Office of Hearings and Appeals (OHA). One of the sections for revision

was erroneously cited. This document corrects that citation.

**DATES:** Effective on March 20, 2002.

#### **FOR FURTHER INFORMATION CONTACT:**

Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203, telephone 702-235-3810.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior published a final rule in the **Federal Register** of January 30, 2002, revising several parts of 43 CFR to reflect a change of address for OHA. 67 FR 4367. One of the sections for revision was erroneously cited as 43 CFR 35.1(g). There is no paragraph (g) in § 35.1. The correct citation is 43 CFR 35.2(g).

In rule FR Doc. 02-2188 published on January 30, 2002 (67 FR 4367), make the following correction: On page 4369, in the first column, change the section heading and instruction 25 to read as follows:

#### **§ 35.2 [Amended]**

25. In § 35.2(g), revise "4015 Wilson Boulevard" to read "801 North Quincy Street".

Dated: March 11, 2002.

**P. Lynn Scarlett,**

*Assistant Secretary—Policy, Management and Budget.*

[FR Doc. 02-6658 Filed 3-19-02; 8:45 am]

BILLING CODE 4310-RK-M

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 020131023-2056-02; I.D. 030702B]

RIN 0648-AP80

#### Pacific Halibut Fisheries; Catch Sharing Plans

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary final rule; annual management measures for Pacific halibut fisheries and approval of catch sharing plans.

**SUMMARY:** The Assistant Administrator for Fisheries, NOAA (AA), on behalf of the International Pacific Halibut Commission (IPHC), publishes annual management measures, promulgated as regulations by the IPHC and approved by the Secretary of State, governing the