

permitted to move during the enforcement period. Vessels remaining in the regulated area during the enforcement period are subject to inspection and examination by Coast Guard and other law enforcement officials. Persons desiring to access their vessels within the regulated area are subject to security screenings.

(2) *Hillsborough River*. All waters of Hillsborough River, including adjacent lands 20 feet shoreward of the mean high water mark of Hillsborough River, south of an imaginary line between the following points: Point 1 in position 27°56'44" N, 82°27'37" W; and Point 2 in position 27°56'44" N, 82°27'33" W. All persons and vessels are prohibited from entering or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(3) *Seddon Channel*. All waters of Seddon Channel, including adjacent lands 20 feet shoreward of the mean high water mark of Seddon Channel, north of an imaginary line between the following points: Point 1 in position 27°55'52" N, 82°27'13" W; and Point 2 in position 27°55'54" N, 82°27'08" W. All persons and vessels are prohibited from entering or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(4) *Sparkman Channel*. All waters of Sparkman Channel, including adjacent lands 20 feet shoreward of the mean high water mark of Sparkman Channel. Recreational vessels are prohibited from entering or remaining in the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative. Commercial vessels are authorized to enter or transit the regulated area, but will be subject to compliance with security protocols established by the Captain of the Port St. Petersburg, including:

(i) Have an approved NOA submitted in accordance with 33 CFR part 160 that indicates a mooring at a facility located within the security zone or at a facility that requires transit of the zone;

(ii) Inspection and examination of all commercial vessels and persons requesting authorization to transit the regulated area (including positive identification checks); and

(iii) Embarkation of law enforcement personnel during authorized regulated area transits.

(5) *Unnamed Channel North of Davis Islands*. All waters of the unnamed channel north of Davis Islands, including adjacent lands 20 feet shoreward of the mean high water mark of the unnamed channel north of Davis Islands, east of an imaginary line

between the following points: Point 1 in position 27°56'16" N, 82°27'40" W; and Point 2 in position 27°56'18" N, 82°27'43" W. All persons and vessels are prohibited from entering or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(6) *Ybor Channel*. All waters of Ybor Channel, including adjacent lands 20 feet shoreward of the mean high water mark of Ybor Channel. Recreational vessels are prohibited from entering or remaining in Ybor Channel unless authorized by the Captain of the Port St. Petersburg or a designated representative. Commercial vessels are authorized to enter or transit Ybor Channel, but will be subject to compliance with security protocols established by the Captain of the Port St. Petersburg, including:

(i) Have an approved NOA submitted in accordance with 33 CFR part 160 that indicates a mooring at a facility located within the security zone or at a facility that requires transit of the zone;

(ii) Inspection and examination of all commercial vessels and persons requesting authorization to transit the regulated area (including positive identification checks); and

(iii) Embarkation of law enforcement personnel during authorized regulated area transits.

(7) *Ybor Turning Basin*. All waters of Ybor Turning Basin, including adjacent lands 20 feet shoreward of the mean high water mark of Ybor Turning Basin. Recreational vessels are prohibited from entering or remaining in Ybor Turning Basin unless authorized by the Captain of the Port St. Petersburg or a designated representative. Commercial vessels are authorized to enter or transit Ybor Turning Basin, but will be subject to compliance with security protocols established by the Captain of the Port St. Petersburg, including:

(i) Have an approved NOA submitted in accordance with 33 CFR part 160 that indicates a mooring at a facility located within the security zone or at a facility that requires transit of the zone;

(ii) Inspection and examination of all commercial vessels and persons requesting authorization to transit the security zone (including positive identification checks); and

(iii) Embarkation of law enforcement personnel during authorized regulated area transits.

(b) *Definition*. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard boat coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local

officials designated by or assisting the Captain of the Port St. Petersburg in the enforcement of the regulated areas.

(c) *Regulations*. (1) All persons and vessels desiring to enter or remain within the regulated areas may contact the Captain of the Port St. Petersburg by telephone at (727) 824-7524, or a designated representative via VHF radio on channel 16, to request authorization.

A Port Community Information Bulletin is available on the Coast Guard internet web portal at <http://homeport.uscg.mil>. Port Community Information Bulletins are located under the Port Directory tab in the Safety and Security Alert links.

(2) If authorization to enter or remain within the regulated areas is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

Recreational vessels authorized to enter the regulated areas may be subject to boarding and inspection of the vessel and persons onboard.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, public outreach, and on-scene designated representatives.

(d) *Effective Date*. This rule is effective from 12:01 p.m. on August 25, 2012 through 11:59 a.m. on August 31, 2012.

Dated: June 28, 2012.

S.L. Dickinson,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 2012-17086 Filed 7-13-12; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2011-0633; FRL-9349-4]

RIN 2070-AB27

Significant New Use Rule for Phenol, 2,4- dimethyl-6-(1-methylpentadecyl)-

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for the chemical substance identified as phenol, 2,4-dimethyl-6-(1-methylpentadecyl)- (PMN P-94-209; CAS No. 134701-20-5). This action requires persons who intend to

manufacture, import, or process the substance 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 would provide 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 August 15, 2012.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2011-0633. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Abeer Hashem, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-1117; email address: hashem.abeer@epa.gov.

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

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

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

- Manufacturers, importers, or processors of the subject chemical substance (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 § 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 chemicals 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 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 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 a SNUR for the chemical substance identified as phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-, (PMN P-94-209; CAS No. 134701-20-5). This action requires persons who intend to manufacture, import, or process the subject chemical substance 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. This rule was proposed in the **Federal Register** of December 28, 2011 (76 FR 81437) (FRL-9325-9). In response to the proposed SNUR, EPA received two public comments. One commenter stated that “phenol is not a safe product to use.” As discussed in Units II. and IV. of the proposed rule, EPA did identify potential hazards for the PMN substance (which is a different chemical substance than “phenol”) but did not find a potential unreasonable risk. EPA proposed this SNUR to require notification so that EPA could evaluate potential risks from any new uses. Another commenter stated that EPA should include an exemption for worker protection requirements when the PMN substance was present in a mixture at low concentrations, specifically at less than 1.0 percent. The commenter also stated that the SNUR should contain an exemption from the requirements of the rule including recordkeeping when it is incorporated into certain substrates. The commenter suggested these exemptions because the PMN substance is often used as an additive in thermoplastic polymer matrices and in mixtures at concentrations less than 1.0 percent. Because EPA does not expect significant risks from these activities, EPA will include these exemptions in the final rule. Therefore, the Agency is issuing a final SNUR that:

1. Adds protection in the workplace requirements under § 721.63 for dermal protection.
2. Includes an exemption from the requirements under § 721.63 when the substance is present in a mixture less than 1.0 percent.
3. Removes all release to water requirements under § 721.90.
4. Includes an exemption from all requirements of the rule including recordkeeping once the PMN substance has been incorporated into polymer matrices.
5. Revises the recordkeeping requirements under § 721.125 to reflect the modified significant new uses.

This final SNUR requires persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of the chemical substance identified as phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-, (PMN P-94-209, CAS No. 134701-20-5), for any activity designated by this final SNUR as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs.

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, import, or process the chemical substance for that use. Persons who must report are described in § 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 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 § 721.1(c), persons subject to this SNUR 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 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 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.

Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated in Customs and Border Patrol regulations 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. For importers of the chemical substance subject to this final SNUR those requirements include the SNUR. 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 the chemical substance are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611 (b)) (see § 721.20) and must comply with the

export notification requirements in 40 CFR part 707, subpart D.

III. Rationale and Objectives of the Final Rule

A. Rationale

During review of the PMN submitted for the chemical substance phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-, EPA concluded that one or more of the criteria of concern established at § 721.170 were met, as discussed in Units II. and IV. of the proposed rule (76 FR 81437).

B. Objectives

EPA is issuing this final SNUR for a specific chemical substance which has 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, import, 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, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, 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 sections 5(e), 5(f), 6, or 7.

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 substance that is the subject to this final SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposure and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit, and the regulations at § 721.170 for issuing a SNUR after receipt of a PMN.

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

As discussed in the **Federal Register** issue 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, import, or processing of the chemical substance 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. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including any extensions expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person meets the conditions of advance compliance under § 721.45(h), the person is considered exempt from the requirements of the SNUR.

VI. 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 § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV. of the proposed rule lists the testing recommended by EPA for the chemical substance phenol, 2,4 dimethyl-6-(1-methylpentadecyl)-. Specifically, EPA has determined that a dermal absorption study (Office of Pollution Prevention and Toxics (OPPTS) Test Guideline 870.3250) would help characterize the health effects of the PMN substance. 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 and test reporting. To access the harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/ocsp> and select "Test Methods and Guidelines."

The recommended tests may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

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

VII. SNUN Submissions

According to § 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 § 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 §§ 721.25 and 720.40. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

VIII. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance subject to this final rule. EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2011-0633.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes a SNUR for a chemical substance that was the subject of a PMN. 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 would 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 \$8,300.

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 VIII. 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 \$8,300. 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

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.

J. Executive Order 12898

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).

X. Congressional Review Act

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 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: June 30, 2012.

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 section in numerical order under the undesignated center heading "Significant New Uses of Chemical Substances" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

*	*	*	*	*
40 CFR Citation		OMB Control No.		
*	*	*	*	*
Significant New Uses of Chemical Substances				
*	*	*	*	*
721.5725			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 § 721.5725 to subpart E to read as follows:

§ 721.5725 Phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-.

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

(1) The chemical substance identified as phenol, 2,4-dimethyl-6-(1-methylpentadecyl)- (PMN P–94–209; CAS No. 134701–20–5) 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 PMN substance after it has been completely reacted (cured); embedded or incorporated into a polymer matrix that has been reacted (cured); or embedded, encapsulated, or incorporated into a permanent solid matrix (does not include slurries) 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)(2)(i), (a)(3), and (b) (concentration set at 1.0 percent).

(ii) [Reserved]

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

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

(a), (b), (c), (d), and (e) are applicable to manufacturers, importers, and processors of this substance.

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

[FR Doc. 2012-17276 Filed 7-13-12; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2010-0846; FRL-9698-3]

Stay of the Effectiveness of Requirements; Approval and Promulgation of Implementation Plans; New Mexico; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Best Available Retrofit Technology Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting an administrative stay of the final rule titled “Approval and Promulgation of Implementation Plans; New Mexico; Federal Implementation Plan for Interstate Transport of Pollution Affecting Visibility and Best Available Retrofit Technology Determination” under the authority of the Administrative Procedure Act (APA) for 90 days. Today’s action reflects this stay in the Code of Federal Regulations.

DATES: Effective July 16, 2012. 40 CFR 52.1628 is stayed until October 15, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2010-0846. All documents in the docket are listed in the Federal eRulemaking portal index at <http://www.regulations.gov> and are available either electronically at <http://www.regulations.gov> or in hard copy at EPA Region 6, 1445 Ross Ave., Dallas, TX, 75202-2733. To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. A reasonable fee may be charged for copies.

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SUPPLEMENTARY INFORMATION: Throughout this document wherever

“we,” “us,” “our,” or “the Agency” is used, we mean the EPA. Unless otherwise specified, when we say the “San Juan Generating Station,” or “SJGS,” we mean units 1, 2, 3, and 4, inclusive.

I. Background

On August 22, 2011, the EPA published a final rule disapproving a portion of the State Implementation Plan (SIP) revision received from the State of New Mexico on September 17, 2007, for the purpose of addressing the “good neighbor” requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA or Act) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 fine particulate matter (PM_{2.5}) NAAQS (the “NM FIP Rule”, 76 FR 52388). In that action, EPA disapproved the New Mexico Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i)(II) that emissions from New Mexico sources do not interfere with measures required in the SIP of any other state under part C of the CAA to protect visibility. We found that New Mexico sources, except the San Juan Generating Station (SJGS), were sufficiently controlled to eliminate interference from those sources with the visibility programs of other states. EPA promulgated a Federal Implementation Plan (FIP) requiring the implementation of nitrogen oxides (NO_x) and sulfur dioxide (SO₂) emission limits necessary at the San Juan Generating Station to prevent such interference. This FIP also addresses the Regional Haze (RH) Best Available Retrofit Technology (BART) requirement for NO_x for SJGS. In addition, EPA implemented sulfuric acid (H₂SO₄) hourly emission limits at the SJGS, to minimize the contribution of this compound to visibility impairment. Finally, we found that compliance with the NO_x, SO₂, and H₂SO₄ emission limits must be within 5 years of the effective date of our final rule consistent with the requirements of the regional haze regulations.

Petitions for judicial review of the final rule were subsequently filed in the United States Court of Appeals for the Tenth Circuit. The petitioners bringing those challenges are WildEarth Guardians, Public Service of New Mexico (PNM), and New Mexico Governor Susana Martinez with the New Mexico Environment Department.

By a letter to the EPA Administrator, dated April 26, 2012, the Governor of New Mexico requested “a short term (90-day) stay” of the federal implementation plan to evaluate the potential for alternatives to the rule requirements. She presents a stay as

being necessary for “meaningful, productive negotiations” that may lead to an avoidance of litigation. By a letter to the acting Regional Administrator of EPA Region 6, dated May 8, 2012, PNM also requested “an opportunity to engage in productive discussions as proposed by Governor Martinez.”

We support discussions of any alternatives to the federal implementation plan that would be consistent with regional haze rule requirements and the requirements of section 110(a)(2)(D)(i)(II) of the CAA. If such an alternative arises through discussions with the State of New Mexico, as well as other stakeholders, it may provide a basis for submittal by the state of a revised SIP, withdrawal of the FIP, and the resolution of pending litigation.

II. Today’s Final Rule

A. Issuance of a Stay and Delay of the Effectiveness of the NM FIP Rule

Pursuant to section 705 of the APA, the EPA hereby stays the effectiveness of the NM FIP Rule for a period of 90 days from the date of publication of this **Federal Register** notice. By this action, we are staying the effectiveness of the rule published in the **Federal Register** on August 22, 2011 (76 FR 52388). This stay of effectiveness will remain in place for 90 days from today. This action adds a note to 40 CFR 52.1628 that there is a 90 day stay of the effectiveness of the NM FIP Rule, but, in its substance, it does not alter any future compliance requirements. There are no compliance obligations under the terms of the NM FIP that arise during the 90 day period.

Under section 705 of the APA, “an agency * * * may postpone the effective date of [an] action taken by it pending judicial review.” This source of authority requires an Agency finding that “justice requires” a temporary stay of rule requirements. Accordingly, as groundwork for the mentioned discussions among the Agency, the State of New Mexico, and other stakeholders, EPA now finds that justice requires a 90-day stay of the rule’s effectiveness. Our temporary stay of the effectiveness of the NM FIP Rule applies only to any requirements established in 40 CFR 52.1628 during the 90-day stay and does not extend the ultimate compliance timeframe set out in the rule, which is a statutory requirement under CAA section 169A(b)(2)(A). Nevertheless, EPA intends to undertake a future rulemaking to either: (1) Extend the compliance time for the NM FIP to accommodate the stay; or (2) account for an alternative proposal. If the