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**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 721**

[EPA-HQ-OPPT-2008-0296; FRL-8858-1]

RIN 2070-AJ41

**Requests for Modification or
Revocation of Toxic Substances
Control Act Section 5 Significant New
Use Notice Requirements; Revision to
Notification Regulations****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: This direct final rule amends the procedures for requests for modification or revocation of Toxic Substances Control Act (TSCA) section 5 significant new use notification (SNUN) requirements by establishing electronic submission requirements. EPA issued a final rule in the **Federal Register** of January 6, 2010, introducing electronic reporting requirements for TSCA section 5 submissions and supporting documents. However, the regulatory text inadvertently did not include amendments to the reporting requirements for submissions of requests for modifications or revocations of SNUN requirements. This direct final rule includes the amendment that was originally intended by EPA.

DATES: This direct final rule is effective July 26, 2011 without further notice, unless EPA receives adverse comment on or before June 27, 2011. If EPA receives adverse comments on this action, EPA will withdraw the direct final rule before its effective date. EPA will then issue a proposed rule, providing a 30-day period for public comment.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2008-0296. 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:* Greg Schweer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8469; e-mail address: schweer.greg@epa.gov.

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

SUPPLEMENTARY INFORMATION:**I. Does this action apply to me?**

You may be affected by this action if you manufacture, import, or process chemicals for commercial purposes. Potentially affected entities may include, but are not limited to:

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

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR part 721 for TSCA section 5-related obligations. 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**.

II. Background**A. What action is the agency taking?**

This action amends 40 CFR 721.185(b)(1), which sets forth requirements for requesting modification or revocation of SNUN requirements. This provision requires persons who request modification of SNUN requirements for a particular chemical substance to send the request in writing to EPA. When developing the TSCA section 5 electronic reporting requirements published in the **Federal Register** issue of January 6, 2010 (75 FR 773) (FRL-8794-5), EPA had intended to include these modification requests. In the document proposing electronic reporting of TSCA section 5 submissions published in the **Federal Register** issue of December 22, 2008 (73 FR 78261) (FRL-8395-8), EPA included regulatory text to require electronic reporting for modification and revocation requests regarding significant new use reporting requirements for microorganisms under 40 CFR 725.984(b)(1), containing language almost identical to the regulatory language included in this direct final rule. Discussion in the preamble of the final rule regarding types of submissions that would continue to be required in hard copy did not include modification and revocation requests under § 721.185(b)(1). No comments were received regarding 40 CFR 725.984(b)(1), and EPA finalized this change. However, the corresponding change to the analogous provision in § 721.185(b)(1) was inadvertently omitted from both the proposed and final rule. This direct final rule includes this change.

B. What is the agency's authority for taking this action?

Section 5(a)(1)(A) of TSCA requires persons to notify EPA at least 90 days before manufacturing a new chemical substance for commercial purposes (under TSCA manufacture includes import). Section 3(9) of TSCA defines a "new chemical substance" as any substance that is not on the TSCA Inventory of Chemical Substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(2) of TSCA 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 notice to EPA at least 90 days before manufacturing or processing the chemical substance for that use.

The Government Paperwork Elimination Act (GPEA) requires Federal agencies to provide for the:

1. Option of electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper.

2. Use and acceptance of electronic signatures, when practicable. EPA's Cross-Media Electronic Reporting Regulation (CROMERR) (40 CFR part 3), published in the **Federal Register** issue of October 13, 2005 (70 FR 59848) (FRL-7977-1), provides that any requirement in title 40 of the CFR to submit a report directly to EPA can be satisfied with an electronic submission that meets certain conditions once the Agency publishes a document that electronic document submission is available for that requirement.

C. Why is this notice issued as a final rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment, for the reasons mentioned in Unit II.A. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. Statutory and Executive Order Reviews

This action amends an existing regulation to correct an omission in the final rule published in the **Federal Register** of January 6, 2010, introducing electronic reporting of TSCA section 5 submissions and supporting documents; it does not otherwise amend or impose any other requirements. This action is not a "significant regulatory action" under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Further, this direct final rule does not impose new or change any information collection burden that requires additional review by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection activities contained in the regulations are already approved under OMB control numbers 2070-0012 and

2070-0038. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9 and on corresponding collection instruments, as applicable.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this direct final rule will not have a significant adverse economic impact on a substantial number of small entities. The correction is not expected to have any adverse economic impacts on affected entities, regardless of their size. This determination is consistent with that made for the final rule, which appears in Unit VII.C. of the preamble to the January 6, 2010 final rule.

State, local, and tribal governments were not expected to be affected by the January 6, 2010 final rule (see Unit VII.D. through F. of the preamble to that action), and, similarly, this direct final rule is not expected to affect these governments. Accordingly, pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531-1538), EPA has determined that this action is not subject to the requirements in UMRA sections 202 and 205 because it does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or for the private sector in any 1 year. In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in UMRA sections 203 and 204. For the same reasons, EPA has determined that this direct final rule does not have "federalism implications" as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), because it would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this direct final rule. Nor does it have "tribal implications" as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 22951, November 9, 2000). Thus, Executive Order 13175 does not apply to this action.

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of*

Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), and Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this direct final rule.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

IV. 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 in 40 CFR Part 721

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

Dated: May 12, 2011.

Stephen A. Owens,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I 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. Revise paragraph (b)(1) of § 721.185 to read as follows:

§ 721.185 Limitation or revocation of certain notification requirements.

* * * * *

(b) * * *

(1) Any affected person may request modification or revocation of significant new use notification requirements for a substance that has been added to subpart E of this part using the procedures described in § 721.160 or § 721.170 by writing to the Director of the Office of Pollution Prevention and Toxics, and stating the basis for such request. The request must be accompanied by the information sufficient to support the request. Persons submitting a request to EPA under this part, unless allowed by 40 CFR 720.40(a)(2)(i), (ii), or (iii), must submit the request to EPA via EPA's Central Data Exchange (CDX) using EPA-provided e-PMN reporting software in the manner set forth in 40 CFR 720.40(a)(2). See 40 CFR 720.40(a)(2)(iv) for information on how to obtain the e-PMN software. Support documents related to these requests must also be submitted to EPA in the manner set forth in 40 CFR 720.40(a)(2)(i), (ii), or (iii). Paper requests must be submitted either via U.S. mail to the Document Control Office (DCO) (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; ATTN: Request to Amend SNUR or submitted via courier to the Environmental Protection Agency, OPPT Document Control Office (DCO), EPA East Bldg., 1201 Constitution Ave., NW., Rm. 6428, Washington, DC 20004; ATTN: Request to Amend SNUR. Optical discs containing electronic requests must be submitted by courier to the Environmental Protection Agency, OPPT Document Control Office (DCO), EPA East Bldg., 1201 Constitution Ave., NW., Rm. 6428, Washington, DC 20004; ATTN: Request to Amend SNUR.

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[FR Doc. 2011-13250 Filed 5-26-11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 64**

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-8181]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: Effective Dates: The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A

notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30,