

and 252:200-3-4; Subchapter 5, Sections 252:200-5-1, 252:200-5-4 and 252:200-5-6; and Subchapter 9, Section 252:200-9-2.

Copies of the Oklahoma regulations that are incorporated by reference can be obtained from The Oklahoma Register, Office of Administrative Rules, Secretary of State, 101 State Capitol, Oklahoma City, Oklahoma 73105.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-50622D; FRL-5782-5]

RIN 2070-AB27

Substituted Phenol; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as substituted phenol, which is the subject of several premanufacture notices (PMN) P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755. This rule would require persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: This rule is effective June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554-1404, TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document are available from the EPA Home Page at the **Federal Register**-Environmental Documents entry for this document under "Laws and Regulations" (<http://www.epa.gov/fedrgstr/>).

This SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of substituted phenol for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

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 chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) of TSCA with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by 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 section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA 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.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting

SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance, which was the subject of PMNs P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755 in the **Federal Register** of August 30, 1995 (60 FR 45072) (FRL-4926-2). EPA received notice of intent to submit adverse comments following publication for this chemical substance. Therefore, as required by § 721.160, the final SNUR for P-89-1125 et al. was withdrawn on June 26, 1997 (62 FR 34414) (FRL-5723-5) and a proposed rule on the substance was issued on June 26, 1997 (62 FR 34427) (FRL-5723-6).

The background and reasons for the SNUR are set forth in the preamble to the proposed rule. EPA received comments concerning the designated significant new uses in the proposed rule. The commenter proposed alternative significant new uses that would achieve the same result of eliminating environmental releases to surface waters. EPA's response to the comments is discussed in this document and EPA is issuing a modified final rule.

The commenter stated that the recordkeeping involved to ensure compliance with the proposed SNUR would hinder the commercial development of the substance. The commenter proposed several alternatives. One was a SNUR limiting use to an ingredient in a photoresist formulation. The second was a SNUR limiting use and production volume (a 10,000 kilogram (kg) per year production volume limit was one possibility). The third alternative was a modified PMN choosing the binding box option for use in part I, section C(2)(a)(3) of the PMN form with the use designated as "ingredient in photoresist formulation." The commenter also stated that TSCA section 12(b) export notification, especially for a formulated product ingredient which will probably remain confidential, is expected to become a significant commercial barrier.

EPA rejected the binding box option as the binding box on a PMN form is not a legally enforceable requirement. While the Agency prefers to issue performance based regulations that directly address the potential hazard to human health or the environment such as the release to surface water designations in the proposed SNUR, EPA can and does issue SNURs that indirectly limit

releases based on information in the PMN as well as public comment.

EPA's analysis of uses in photoresist formulations found no significant releases to surface waters. In addition, the SNUR is consistent with the existing use of the PMN substance and addresses the commenter's concerns of customer compliance with the SNUR. Based on these reasons, EPA is issuing a final SNUR limiting the use of the PMN substance to an ingredient in a photoresist formulation. Further, export notification will still apply as TSCA section 12(b) clearly states that any substance or any formulation containing that substance, subject to a rule under TSCA section 5 is subject to export notification.

IV. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) of TSCA is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on August 30, 1995, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after August 30, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the

SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the 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 all extensions, expires.

V. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in this rule. The Agency's complete economic analysis is available in the public record for this rule (OPPTS-50622D).

VI. Public Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-50622D (including comments and data submitted electronically). A public version of the record, including printed, paper versions of electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA NonConfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

VII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special considerations of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been

approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has previously certified, as a generic matter, that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL-5597-1) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

VIII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted 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 General Accounting Office prior to publication of this rule in today's **Federal Register**. This 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: April 21, 1998.

Charles M. Auer,

Director, Chemical Control Division, 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.

2. By adding new § 721.5867 to read as follows:

§ 721.5867 Substituted phenol.

(a) *Chemical substance and significant new uses subject to reporting.*
(1) The chemical substance generically

identified as substituted phenol (PMNs P-89-1125, P-91-87, P-92-41, P-92-511, P-94-1527, and P-94-1755) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (ingredient in a photoresist formulation).

(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), and (i) 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.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2200

[WO-420-1050-00-24 1A]

RIN 1004-AC97

National Forest Exchanges

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is removing 43 CFR subpart 2202 in its entirety, and revising section 2201.1-2(a) to include a statement about segregative effect. Subpart 2202 contains material that is substantially covered by BLM's general Exchange regulations at 43 CFR 2201. The new 43 CFR 2201.1-2(a), as revised by this final rule, will cover any additional material from the existing subpart 2202. As a result, this removal and revision action will have no impact on BLM customers or the public at large.

EFFECTIVE DATE: June 1, 1998.

ADDRESSES: You may send inquiries or suggestions to: Administrative Record (630), Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ted Milesnick, Lands and Realty Group, Bureau of Land Management, at (202) 452-7727.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Final Rule as Adopted
- III. Responses to Comments
- IV. Procedural Matters

I. Background

BLM is removing 43 CFR subpart 2202 because it duplicates sections contained elsewhere in BLM's regulations, at 43 CFR 2201.1-2. Subpart 2202 requires that exchange proposals for the consolidation or extension of national forests be filed with the appropriate officer of the Forest Service. It says that a request may be made to the BLM to segregate the National Forest System lands involved in the exchange from appropriation under the public land laws and the mineral laws and also that any interests of the United States in the non-Federal lands to be acquired may be segregated from the mineral laws. The period of these segregations would not exceed 5 years from the date of notation.

Similar language can be found at section 2201.1-2 (as well as in the Forest Service regulations at 36 CFR Part 254, Subpart A); with only two differences. First, section 2201.1-2 does not include the authorities section found at 2202.1(a), or the statement that proposals for exchange of National Forest System lands must be filed with the Forest Service in accordance with 36 CFR 254. However, regulations which direct people to comply with other valid regulations are redundant and unnecessary, and the authorities will be added to section 2201.1-2.

Second, section 2201.1-2 exists in a CFR part that defines *Federal lands* as those lands administered by BLM, not National Forest System lands. However, amending this section to apply its provisions to National Forest System lands as well (as the Forest Service's regulations already do) will insure that the removal of 43 CFR 2202 cannot alter any existing rights or obligations. This rule accomplishes that amendment by adding 43 CFR 2201.1-2(e) below, renders subpart 2202 completely redundant and unnecessary, and removes subpart 2202 from the Code of Federal Regulations.

The final rule published today is a stage of a rulemaking process that will complete the removal of 43 CFR subpart 2202 and the revision of 43 CFR 2201.1-2. This rule was preceded by a proposed rule which introduced this action and BLM's purpose and need. The proposed rule was published in the **Federal Register** on September 11, 1996 (61 FR 47855). This proposed rule was intended to give anyone who would be adversely affected by this action an

opportunity to call their concerns to our attention. The BLM invited public comments for 30 days and received no comments.

II. Final Rule as Adopted

This rule will remove all of 43 CFR subpart 2202—Exchanges: National Forest Exchanges. In addition, it will amend 43 CFR 2201.1-2 to enable this section to perform all of the functions currently accomplished by 43 CFR subpart 2202. Therefore, this removal will not affect existing laws or the rights of the United States, BLM, or the public at large.

The new section is designed to extend the coverage of the general exchange provisions in 43 CFR section 2201.1-2 to include the National Forest exchanges conducted in nearly identical fashion by 43 CFR subpart 2202. Very few differences exist between the two sets of regulations, but some of those differences are substantive in nature and require the amendment that this rule promulgates. Therefore, a new subsection will be added at 43 CFR 2201.1-2(e) which will accomplish three important tasks. First, it will say that this section also applies to proposals to exchange lands under the National Forest System; until now this section only applied to exchanges of BLM lands. Secondly, it will direct that exchanges of National Forest System lands be conducted in accordance with the Forest Service regulations at 36 CFR part 254. Finally, it will permit the authorized Forest Service officer to request the appropriate BLM State Office to segregate the land at issue by making a notation on the public land records. Since amended 43 CFR 2201.1-2(e) will accomplish these tasks, all of subpart 2202 will be expendable, and may be removed at this same time without any substantive impact on the United States, BLM, or the public at large.

43 CFR 2202.1(a) contains the authorities' cites for the remainder of the subpart. This includes statutory citations and a reference to the regulations of the U.S. Forest Service which govern exchanges of National Forest lands. These citations, as well as the requirement that proposals shall be filed in accordance with Forest Service regulations, will be relocated to 43 CFR 2201.1-2(e) by the amendment contained in this rule. Therefore, elimination of this section will have no substantive effect.

Subsection (b) of 43 CFR 2202.1 largely duplicates the general exchange provisions found at 43 CFR 2201.1-2(a). The only substantive difference is that § 2201.1-2 applies to segregations of