

(e) *Enforcement period.* This section will be enforced from 6 a.m. to 5 p.m. on June 9, 2010 unless cancelled earlier by the Captain of the Port.

Dated: March 22, 2010.

A. Popiel,

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

[FR Doc. 2010-7427 Filed 4-1-10; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2008-0089; FRL-9132-2]

#### Approval and Promulgation of Implementation Plans; Texas; Revisions to Voiding of Permits and Extension of Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve severable portions of a submittal from the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), on September 25, 2003, to revise the Texas Major and Minor New Source Review (NSR) State Implementation Plan (SIP). Within this SIP submittal, the State repealed a paragraph of the SIP rule pertaining to the Texas Major and Minor NSR SIP and renumbered the SIP rule's paragraphs. We are proposing to approve the new replacement rule as meeting the Major and Minor NSR SIP requirements for voiding of permits.

We are also proposing to approve the portion of the revision that addresses the recodification of the provision relating to the granting of one 18-month extension of a permit as meeting the Major and Minor NSR SIP requirement for extensions of permits. The revision imposes requirements on permittees, requiring a review of the permit's underlying permit determinations before this SIP-approved extension can be granted. Finally, the revision provides for a second permit extension if certain conditions are met, including a health effects review. EPA is proposing to approve the new replacement rule for this second permit extension as meeting the Major and Minor NSR and NNSR SIP requirements.

EPA finds that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations, are consistent with EPA policies, and will improve air quality.

This action is being proposed under section 110 and parts C and D of the Act.

**DATES:** Comments must be received on or before May 3, 2010.

**ADDRESSES:** Comments may be mailed to Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning today's proposal, please contact Ms. Melanie Magee (6PD-R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD-R), Suite 1200, Dallas, TX 75202-2733. The telephone number is (214) 665-7161. Ms. Magee can also be reached via electronic mail at [magee.melanie@epa.gov](mailto:magee.melanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of the rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: March 24, 2010.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2010-7212 Filed 4-1-10; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 721

[EPA-HQ-OPPT-2008-0918; FRL-8818-2]

RIN 2070-AB27

#### Proposed Significant New Use Rule for 1-Propene, 2,3,3,3-tetrafluoro-

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro- (CAS No. 754-12-1) which was subject to premanufacture notice (PMN) P-07-601. This proposed rule would require persons who intend to manufacture, import, or process the substance for an activity that is designated as a significant new use 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 the activity before it occurs.

**DATES:** Comments must be received on or before May 3, 2010.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2008-0918, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

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

- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA-HQ-OPPT-2008-0918. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPPT-2008-0918. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** 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., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically 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 general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division

(7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**For technical information contact:** Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-9232; e-mail address: [moss.kenneth@epa.gov](mailto:moss.kenneth@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 substance contained in this proposed 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 and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). 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. In addition, any persons who export or intend to export a chemical substance that is the subject of

this proposed rule on or after May 3, 2010 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.

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

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

2. **Tips for preparing your comments.** When submitting comments, remember to:

- Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

##### **II. Background**

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

EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of TSCA for the chemical substance

identified as 1-Propene, 2,3,3,3-tetrafluoro- (PMN P-07-601; CAS No. 754-12-1). This SNUR would require persons who intend to manufacture, import, or process the chemical substance for any activity designated as a significant new use to notify EPA at least 90 days before commencing the activity.

In the **Federal Register** of February 1, 2010 (75 FR 4983) (FRL-8438-4), EPA issued a direct final SNUR for the substance in accordance with the procedures at § 721.170(d)(4)(i). EPA received notice of intent to submit adverse comments on this SNUR. Therefore, as required by at § 721.170(d)(4)(i), EPA is withdrawing the direct final SNUR, which is published elsewhere in this **Federal Register** and is now issuing this proposed SNUR on this substance. The record for the direct final SNUR on this substance was established as docket EPA-HQ-OPPT-2009-0918. That record includes information considered by the Agency in developing the direct final rule and the notice of intent to submit adverse comments.

#### *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. The mechanism for reporting under this requirement is established under § 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 at 19 CFR 12.118 through 12.127, and 19 CFR 127.28 (the corresponding EPA policy appears at 40 CFR part 707, subpart B). Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemical substances subject to a final SNUR must certify their compliance with the SNUR requirements. In addition, any persons who export or intend to export a chemical substance identified in a final SNUR 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. 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 of this proposed SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this Unit.

For the chemical substance 1-Propene, 2,3,3,3-tetrafluoro- (PMN P-07-601; CAS No. 754-12-1), EPA did not find that the use scenarios described in the PMN triggered the determination set forth under section 5(e) of TSCA. EPA did, however, determine that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a "significant new use." EPA has determined that activities proposed as a "significant new use" satisfy the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities: "(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified" for the PMN substance.

#### **IV. Substance Subject to this Proposed Rule and Basis for the Action**

EPA is proposing to establish significant new use and recordkeeping requirements for the chemical substance identified as 1-Propene, 2,3,3,3-tetrafluoro- (PMN P-07-601; CAS No. 754-12-1). The specific activities proposed as significant new uses and other requirements are listed in 40 CFR 721.10182 of the proposed regulatory text.

##### **PMN Number P-07-601**

*Chemical name:* 1-Propene, 2,3,3,3-tetrafluoro-.

*CAS number:* 754-12-1.

*Basis for action:* The PMN states that the substance will be used as a motor vehicle air conditioning (MVAC) refrigerant in new passenger cars and vehicles (i.e., as defined in 40 CFR 82.32 (c) and (d)). Initial charging of MVAC units with the PMN substance will be done by the motor vehicle original equipment manufacturer. All servicing, maintenance, and disposal involving the PMN substance will be done only by Clean Air Act (CAA) section 609 certified technicians using CAA section 609 certified refrigerant handling equipment. Based on test data on the PMN substance, EPA identified health concerns for developmental toxicity and lethality to workers and consumers if they were exposed to a significant amount of the PMN substance via inhalation. The PMN substance has an ozone depletion potential of zero, and, based on test data, has a low global warming potential (GWP100 of about 4). For the use scenario described in the PMN, significant industrial or commercial worker exposure is unlikely

due to the use of CAA section 609 certified refrigerant handling equipment and other protective measures. Potential consumer (vehicle passenger) exposure from refrigerant leaks into the passenger compartment of a vehicle is not expected to present significant risk of serious health effects. Flammability concerns with the PMN substance are being addressed through regulatory actions by EPA's Office of Air and Radiation (see the following paragraph). Further, "do-it-yourself" consumer exposures are not expected because the PMN substance only will be sold or distributed in 20-pound containers or larger. Therefore, EPA has not determined that the manufacturing, processing, or use of the substance as described in the PMN may present an unreasonable risk. EPA has determined, however, that (1) use of the substance other than as a MVAC refrigerant in new passenger cars and vehicles as defined in 40 CFR 82.32 (c) and (d), (2) initial charging of MVAC units with the PMN substance by any person other than CAA section 609 certified technicians without using CAA section 609 certified refrigerant handling equipment, (3) servicing, maintenance, and disposal involving the PMN substance by persons other than CAA section 609 certified technicians without using CAA section 609 certified refrigerant handling equipment, or (4) sale or distribution of the PMN substance in containers smaller than 20-pounds (net weight) may cause serious health effects in accordance with 40 CFR 721.170(b)(3)(i).

This proposed SNUR is intended to complement recently proposed and forthcoming regulations on the PMN substance under the CAA in that this SNUR addresses health risk issues of the subject refrigerant. On October 19, 2009, EPA published a proposed rule on the PMN substance entitled "Protection of Stratospheric Ozone: New Substitute in the Motor Vehicle Air Conditioning Sector under the Significant New Alternatives Policy (SNAP) Program" (74 FR 53445) (FRL-8969-7). The SNAP Program, mandated under section 612 of the CAA, requires EPA to develop a program for evaluating alternatives to ozone-depleting substances and to create lists of substitutes for specific uses that do not present greater overall risk to human health and the environment than other alternatives that are available. In the October 19, 2009, action, EPA proposed to find HFO-1234yf acceptable, subject to certain use conditions, as a substitute for CFC-12 in new motor vehicle air conditioning systems (passenger cars and trucks). The

proposed use conditions include incorporation of engineering strategies and/or devices to mitigate flammability risks for this substance (see Unit V. of the proposed SNAP rule). Use of most flammable refrigerants, including the PMN substance, in existing MVAC systems as a retrofit has previously been determined by EPA to be unacceptable. The proposed SNAP rule would require a petition and a new SNAP submission specifically for the use of the PMN substance in existing MVAC equipment as a retrofit before EPA would consider allowing such use (see Unit VI. of the proposed SNAP rule). EPA also intends to promulgate a follow-on rulemaking under section 609 of the CAA to address service equipment, technician certification, and end-of-life disposal specifications.

*Recommended testing:* EPA has determined that the results of an acute inhalation toxicity study (OPPTS Harmonized Test Guideline 870.1300 or Organisation for Economic Co-operation and Development (OECD) 403 test guideline) with rabbits would help characterize the human health effects of the PMN substance. Exposure concentrations of 10,000, 50,000, and 100,000 parts per million (ppm) should be used. Further, rabbits should be exposed for 1 hour, and pregnant rabbits should be exposed on Gravid Day 12. *CFR citation:* 40 CFR 721.10182.

## V. Rationale and Objectives of the Proposed Rule

### A. Rationale

During the review of the chemical substance P-07-601, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

### B. Objectives

EPA is proposing this SNUR for a chemical substance that has undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

- EPA would 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 would 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 would 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/newchems/pubs/invntory.htm>.

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

To establish a significant "new" use, EPA must determine that the use is not ongoing. EPA solicits comments on whether any of the uses proposed as significant new uses are ongoing.

As discussed in the **Federal Register** 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 of the proposed rule 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 final, and then argue that the use was ongoing before the effective date of the final rule. Thus, persons who begin commercial manufacture, import, or processing with the chemical substances that would be regulated as a "significant new use" through this proposed rule, must cease any such activity before the effective date of the rule if and when finalized. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this proposed SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR, for those activities.

## VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN, except where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)).

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. EPA recommended certain testing listed in Unit IV. 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. To access the OPPTS harmonized test guidelines referenced in this document electronically, please go to <http://www.epa.gov/oppts> and select "Test Methods and Guidelines." The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at <http://www.oecdbookshop.org> or SourceOECD at <http://www.sourceoecd.org>.

The recommended test(s) may not be the only means of addressing the potential risks of the chemical substance. However, SNUNs submitted for significant new uses 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 test(s).

SNUN submitters should be aware that EPA would 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 substance.
- Potential benefits of the chemical substance.
- Information on risks posed by the chemical substance compared to risks posed by potential substitutes.

#### VIII. SNUN Submissions

As stated in Unit II.C., 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 to the Environmental Protection Agency on EPA Form No. 7710-25 in accordance with the procedures set forth in §§ 721.25 and 720.40. This form is available from the Environmental Assistance Division (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001 (see

§§ 721.25 and 720.40). Forms and information are also available electronically at <http://www.epa.gov/opptintr/newchems>.

#### IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The Agency's complete economic analysis is available in the public docket for the direct final rule (EPA-HQ-OPPT-2008-0918).

#### X. References

The official record for this proposed rule has been established. The following is a listing of the documents that have been placed in the proposed rule phase of the docket under docket ID number EPA-HQ-OPPT-2008-0918, which is available for inspection as specified under ADDRESSES. These documents serve as supplementary information specific to P-07-601 (aka HFO-1234yf) for consideration when submitting comments.

1. Letter Confirming Release of CBI Claims for HFO-1234yf Gradient Report.
2. Gradient Corporation. 2008. Risk Assessment for Alternative Refrigerant HFO-1234yf.
3. WIL Research Laboratories, LLC. 2008. An Inhalation Prenatal Developmental Toxicity Study of HFO-1234yf (2,3,3,3-tetrafluoropropene) in Rabbits.
4. United States Environmental Protection Agency (EPA). 2009. Addendum to Risk Assessment: PMN P-07-601.

#### XI. Statutory and Executive Order Reviews

##### A. Executive Order 12866

This proposed rule would establish 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 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 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 would amend the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this proposed 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

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 would not have a significant adverse economic impact on a substantial number of small entities. The rationale supporting this conclusion is discussed in this unit. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant

new use.” Because these uses are “new,” based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use 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 1,400 SNURs, the Agency receives on average only 5 notices per year. Of those SNUNs submitted from 2006–2008, only one appears to be from a small entity. In addition, the estimated reporting cost for submission of a SNUN (see Unit IX.) is minimal regardless of the size of the firm. Therefore, the potential economic impacts 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 in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL–5597–1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

#### D. Unfunded Mandates Reform Act

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 would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

#### E. Executive Order 13132

This action would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

#### F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly or uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

#### G. Executive Order 13045

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 proposed rule 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).

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

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

Dated: March 25, 2010.

**Barbara A. Cunningham,**

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

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

#### PART 721—[AMENDED]

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

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

2. Add § 721.10182 to subpart E to read as follows:

#### § 721.10182 1-Propene, 2,3,3,3-tetrafluoro-

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

(1) The chemical substance identified as 1-propene, 2,3,3,3-tetrafluoro- (PMN P–07–601; CAS No. 754–12–1; also known as HFO–1234yf) 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) (use as a motor vehicle air conditioning (MVAC) refrigerant in new passenger cars and vehicles as defined in 40 CFR 82.32 (c) and (d). The initial charging of MVAC units with the PMN substance will be done by the motor vehicle original equipment manufacturer. All servicing, maintenance, and disposal involving the PMN substance will be done only by Clean Air Act (CAA) section 609 certified technicians using CAA section 609 certified refrigerant handling equipment. The PMN substance only will be sold or distributed in 20–pound (net weight) containers or larger.

(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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