

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

[OPPTS-50643A; FRL-6807-3]

RIN 2070-AB27

**Revocation of Significant New Uses of Certain Chemical Substances**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking significant new use rules (SNURs) for 2 substances promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) based on new data. Based on the new data the Agency no longer finds that activities not described in the corresponding TSCA section 5(e) consent orders for these chemical substances may result in significant changes in human or environmental exposure.

**DATES:** This rule is effective February 11, 2002.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

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

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

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

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

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

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 721 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr721\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr721_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS-50643A. The official record

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

**II. Background***A. What Action is the Agency Taking?*

The Agency proposed the revocation of these SNURs in the **Federal Register** of August 16, 2001 (66 FR 42976) (FRL-6763-3). The background and reasons for the revocation of each individual SNUR are set forth in the preamble to the proposed revocation. The comment period closed on September 17, 2001. EPA received one comment supporting the revocation of the SNURs. Therefore, EPA is revoking these rules.

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

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

During review of the PMNs submitted for the chemical substances that are the subject of this revocation, EPA concluded that regulation was

warranted based on available information that indicated activities not described in the TSCA section 5(e) consent order or the PMN might result in significant changes in human or environmental exposure as described in section 5(a)(2) of TSCA. Based on these findings, SNURs were promulgated.

EPA has revoked the TSCA section 5(e) consent orders that are the basis for these SNURs and no longer finds that activities other than those described in the TSCA section 5(e) consent orders may result in significant changes in human or environmental exposure. The revocation of SNUR provisions for these substances is consistent with the findings set forth in the preamble to the proposed revocation of each individual SNUR.

Therefore, EPA is revoking the SNUR provisions for these chemical substances and will no longer require notice of intent to manufacture, import, or process these substances. In addition, export notification under section 12(b) of TSCA will no longer be required.

### III. Regulatory Assessment Requirements

This rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, 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).

Since this rule does not impose any requirements, it does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

Nor does it require any prior consultation as specified by Executive Order 12875, entitled "*Enhancing the Intergovernmental Partnership*" (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled "*Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*" (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled "*Protection of Children from Environmental Health Risks and Safety Risks*" (62 FR 19885, April 23, 1997).

On August 4, 1999, President Clinton issued a new executive order on *Federalism*, Executive Order 13132 (64 FR 43255, August 10, 1999). This rule 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.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that SNUR revocations, which eliminate requirements without imposing any new ones, have no adverse economic impacts.

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to 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: December 3, 2001.

**William H. Sanders, III**

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

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

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

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

#### §§ 721.3460 and 721.6820 [Removed]

2. By removing §§ 721.3460 and 721.6820.

[FR Doc. 01-30594 Filed 12-10-01; 8:45 am]

**BILLING CODE 6560-50-S**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 241

[FRA Docket No. FRA-2001-8728, Notice No. 1]

RIN 2130-AB38

#### U.S. Locational Requirement for Dispatching of U.S. Rail Operations

**AGENCY:** Federal Railroad Administration (FRA), DOT.

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** This Interim Final Rule adds a new regulation that requires all dispatching of railroad operations that occur in the United States to be performed in the United States, with three minor exceptions. First, a railroad is allowed to conduct dispatching of railroad operations in the United States from a point outside the United States ("extraterritorial dispatching") in emergency situations for the duration of the emergency if the railroad provides prompt written notification of its action to the FRA Regional Administrator of each FRA region in which the railroad operation occurs; such notification is not required before addressing the emergency situation. Second, the rule permits continued extraterritorial dispatching of the very limited track segments in the United States that were regularly being so dispatched in December 1999. This grandfathering covers the four domestic operations that are dispatched from Canada. Third, the rule would allow for extraterritorial dispatching from Canada or Mexico of fringe border operations. Such operations are acceptable provided the United States trackage being dispatched does not exceed 100 miles, each train is under the control of the same assigned crew for the entire trip over that trackage, and the rail line encompassing the trackage either both originates and terminates in either Canada or Mexico without the pick up, set out, or interchange of cars in the United States or is under the exclusive control of a single dispatching district and that portion of the line being dispatched extends no further into the United States than specified types of locations close to the border.

In addition, railroads that wish to commence additional extraterritorial dispatching may apply for a waiver under certain other provisions in the domestic locational requirement set forth in this regulation. Such a waiver may be granted if, inter alia, an