

patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: July 18, 2011.

R.V. Timme,

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

[FR Doc. 2011-19997 Filed 8-5-11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0505]

Security Zone; 2011 Seattle Seafair Fleet Week Moving Vessels, Puget Sound, WA; Correction

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; correction.

SUMMARY: On July 11, 2011 the Coast Guard published a temporary final rule in the **Federal Register** (76 FR 40617), establishing temporary security zones around visiting foreign and domestic military vessels that are participating in the 2011 Seattle's Seafair Fleet Week. This document corrects the list of visiting military vessels for which the rule will establish security zones.

DATES: This correction is effective from 8 a.m. on August 3, 2011 through 5 p.m. on August 8, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this correction document, call or e-mail ENS Anthony P. LaBoy, Coast Guard Sector Puget Sound, Waterways Management Division; telephone 206-217-6323, e-mail *SectorPugetSoundWWM@uscg.mil*.

Correction

In the temporary final rule FR Doc. 2011-17261, beginning on page 40617 in the **Federal Register** issue of July 11, 2011, make the following corrections:

1. In the **SUMMARY** section, on page 40617, starting at the bottom of the 2nd column, correct the first sentence of the **SUMMARY** to read as follows:

The U.S. Coast Guard is establishing temporary security zones around the HMCS WHITEHORSE (NCSM 705), HMCS NANAIMO (NCSM 702), CCGS SIYAY, and the USCGC ALERT (WMEC 630) which include all waters within 500 yards from the vessels while each vessel is participating in the Seafair Fleet Week Parade of Ships and while moored following the parade until departing on August 8, 2011.

2. In the **SUPPLEMENTARY INFORMATION** section, under the heading of "Discussion of Rule," in the first column on page 40618, correct the first sentence to read as follows:

The temporary security zones established by this rule will prohibit any person or vessel from entering or remaining within 500 yards of the HMCS WHITEHORSE (NCSM 705), HMCS NANAIMO (NCSM 702), CCGS SIYAY, and the USCGC ALERT (WMEC 630) while these vessels are participating in the Parade of Ships and while moored at Pier 66, Terminal 25, and Terminal 46.

3. In the regulatory text, starting in the second column on page 40619, correct § 165.T13-186 (a) to read as follows:

Location: The following areas are security zones: All waters within the Captain of the Port Puget Sound Zone encompassed within 500 yards of the HMCS WHITEHORSE (NCSM 705), HMCS NANAIMO (NCSM 702), CCGS SIYAY, and the USCGC ALERT (WMEC 630) while each vessel is participating in the Seafair Fleet Week Parade of Ships and while moored at Pier 66, Terminal 25, and Terminal 46, Elliott Bay, Seattle, WA.

Dated: July 27, 2011.

S.J. Ferguson,

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

[FR Doc. 2011-19995 Filed 8-5-11; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2009-0922; FRL-8878-2]

RIN 2070-AB27

Cobalt Lithium Manganese Nickel Oxide; 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 identified as cobalt lithium manganese nickel oxide (CAS No. 182442-95-1), which was the subject of premanufacture notice (PMN) P-04-269. This action requires persons who intend to manufacture, import, or process the chemical substance for a use that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. EPA believes that this action is necessary because the chemical substance may be hazardous to human

health and the environment. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective September 7, 2011.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2009-0922. 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: 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.

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 potentially affected by this action if you manufacture, import, process, or use the chemical substance

which is the subject of this final rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

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

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. For importers of the chemical substance subject to this SNUR, those requirements include the SNUR. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of this final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) for the chemical substance identified as cobalt lithium manganese nickel oxide (PMN P-04-269; CAS No. 182442-95-1). This action requires persons who intend to manufacture, import, or process the subject chemical substance for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** issue of September 20, 2010 (75 FR 57169) (FRL-8839-7), EPA issued a direct final SNUR on the chemical substance. However, EPA received notices of intent to submit adverse comments on this SNUR. Therefore, as required by § 721.160(c)(3)(ii), in the **Federal Register** issue of November 18, 2010 (75 FR 70583) (FRL-8853-2), EPA withdrew the direct final SNUR on the chemical substance and simultaneously proposed a SNUR using notice and comment procedures (75 FR 70665) (FRL-8853-3). More information on the specific chemical substance subject to this final rule can be found in the direct final and proposed SNUR. The docket for this action, as well as the preceding direct final and proposed SNUR on this chemical substance, is found under docket ID number EPA-HQ-OPPT-2009-0922. That docket includes information considered by the Agency in developing this final rule, including public comments on the proposed and direct final rules.

EPA received several comments on the proposed rule. A full discussion of EPA's response to these comments is included in Unit V. of this document. Taking into consideration these comments, EPA is issuing a final rule on this chemical substance that:

1. Retains the proposed workplace protection, hazard communication, and release to water provisions as significant new uses.
2. Retains the proposed recommended human health and environmental effects testing.
3. Provides clarification on the exemptions from applicability of the SNUR. This exemption applies to quantities of the PMN substance after it has been completely reacted (cured).

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

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

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These

provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700.

According to § 721.1(c), persons subject to these SNURs 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; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. For importers of a chemical substance subject to a final SNUR those requirements include the SNUR. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export 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. Rationale and Objectives of the Rule

A. Rationale

During review of the chemical substance the subject of PMN P-04-269, EPA concluded that regulation was warranted under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), pending the development of information sufficient to make reasoned evaluations of the human health and environmental effects of the chemical substance. Based on these findings, a TSCA section 5(e) consent order requiring the use of appropriate exposure controls was negotiated with the PMN submitter. The SNUR provisions for this chemical substance are consistent with the provisions of the TSCA section 5(e) consent order. This final SNUR is issued

pursuant to § 721.160. For additional discussion on the rationale for this action, see Units II. and V. of this document.

B. Objectives

EPA is issuing this final SNUR for a specific 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 final rule:

- EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacture, import, or processing of the 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.

- EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

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-line at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substance subject to this final SNUR, EPA considered relevant information about the toxicity of the chemical substance, likely human exposures and environmental releases associated with possible uses, taking into consideration the four bulleted TSCA section 5(a)(2) factors listed in this unit.

V. Response to Comments on Proposed SNUR on Cobalt Lithium Manganese Nickel Oxide

EPA received several public comments on the proposed rule. Of these comments, two commenters were supportive of EPA's findings and agreed with the issuance of this regulation. A discussion of the remaining substantive comments received and the Agency's responses follows.

Comment 1: One commenter examined the solubility and release of cobalt and nickel ions in water to confirm the commenter's assumption that the PMN substance can be best described as an alloy, without the potential to release the individual ions. The commenter believes that the substance should therefore behave in the respiratory tract as an "inert" dust, and recommended a time weighted average (TWA) of 1 mg/m³ in accordance with "similar compounds," rather than the Occupational Safety and Health Administration (OSHA) Permissible Exposure Level (PEL) of 0.1 mg/m³ for nickel. The commenter included solubility data with the submission for Agency review.

Response: An alloy is a mixture of elemental metals. In contrast, based on submitted weight-fraction data, the PMN substance is characterized as a mixed-metal oxide, in which all of the metal species are oxidized (none exist in an elemental state) and accordingly would have the potential to dissociate into free metal ions upon release. Therefore, the Agency does not believe a change to the proposed New Chemicals Exposure Limit (NCEL) of 0.1 mg/m³ is supportable at this time. In addition, solubility data submitted by the commenter supports the Agency's predictions that the metals would be soluble well above the 1 part per billion (ppb) aquatic toxicity concentration of concern (COC) for the PMN substance in surface waters. As a result, EPA will retain the recommended human health and aquatic toxicity studies listed in the proposed rule.

Comment 2: One commenter submitted a number of studies that were completed for a new chemical notification for cobalt lithium manganese nickel oxide for Belgium. Those studies included: An acute oral toxicity (Organisation for Economic Co-operation and Development (OECD) Test Guideline 420) in rats; an acute dermal toxicity (OECD Test Guideline 402) in rats; an acute dermal irritation (OECD Test Guideline 404) in rabbits; an acute eye irritation (OECD Test Guideline 405) in rabbits; a local lymph node assay (OECD Test Guideline 429) in mice; a 28-day repeated dose oral (gavage) toxicity (OECD Test Guideline 407) in rats; a reverse mutation assay Ames Test (OECD Test Guideline 471) using *Salmonella typhimurium* and *Escherichia coli*; an *in vitro* chromosome aberration test (OECD Test Guideline 473) on human lymphocytes; and physical/chemical properties data for: melting/freezing temperature (American Society for Testing and Materials (ASTM) E537-86, Method A1 of European Commission (EC) Directive 92/69/EEC); relative density (gas comparison pycnometer); water solubility (flask method); particle size distribution (OECD Test Guideline 110); flammability (EC Method A10); explosive properties (EC Method A14); oxidizing properties (EC Method A16); and relative self-ignition temperature for solids (EC Method A10)). The submitter stated that it believed information contained in the studies may be of use to the EPA in preparation of a final rule.

Response: Summaries of the results of the aforementioned submitted data are included in the public docket at EPA-HQ-OPPT-2009-0922-0150. While the submitted information was informative, it did not change EPA's human health and environmental concerns for the chemical, for the reasons described as follows:

a. *Human health effects.* EPA's primary human health concern for the PMN substance is lung carcinogenesis from respirable crystalline material. EPA determined that the acute oral and 28-day oral gavage studies had little bearing on those concerns. The physical-chemical data confirmed that the PMN substance is in the respirable range. The dermal and eye irritation studies indicate that the PMN substance is of low dermal toxicity, is not a skin irritant, does not pose a skin sensitization hazard, and is a minimal eye irritant (class 3 on a scale of 1 to 8). The substance is not a gene mutagen or a chromosome mutagen in human cells.

b. *Environmental effects.* The submitted acute and chronic aquatic toxicity assessment was consistent with

the EPA toxicity profiles for the metals, from which the Agency derived the aquatic toxicity concern concentration of 1 ppb.

Comment 3: One commenter believed that the release-to-water provision in the proposed SNUR, for requirements at § 721.90 (a)(1), (b)(1), and (c)(1), is an unreasonable and overbroad restriction that would lead to domestic manufacturers being subject to manufacturing limitations not applicable to their off-shore competitors. The comment stated that discharges of cobalt, lithium, manganese, and nickel oxide can be expected to be adequately regulated under a facility's pre-treatment or direct discharge permit issued under the Clean Water Act (CWA), which is specifically intended to regulate such discharges and ensure that effluent does not compromise aquatic organisms. Additionally, the comment stated that the PMN substance represents a battery technology that offers significant environmental benefits, based on the capability of storing much larger amounts of electricity, which will diminish the use of fossil fuels and power more sustainable and energy-efficient automobiles and other electronics. The comment requested that the release-to-water provision should either be eliminated altogether or revised to provide for no-release-to-water without valid authorization under the CWA, or similar language that would allow dischargers operating under valid pre-treatment or direct discharge permits to continue to operate as allowed under the terms of those CWA-issued permits.

Response: Through the National Pollutant Discharge Elimination System (NPDES) Permit Program and the National Pretreatment Program, a component of the NPDES Permit Program, Federal, State, and local governments control water pollution by regulating point sources that discharge pollutants into waters of the United States. However, for the regulation of toxic pollutants, the NPDES Permit Program focuses on the CWA section 307(a)(1) list of priority pollutants (which do not include cobalt, lithium, or manganese). When a pollutant discharged by a direct or indirect discharging industry is not specifically limited in an effluent guideline or by pretreatment standards, respectively, it is up to the permit writer or state/local agency to utilize best professional judgment to establish technology-based limits or determine other appropriate means to control its discharge. Permit writers may not be aware of the discharge of certain toxic chemical

substances by a specific facility, such as chemical substances that have been assessed under the TSCA New Chemicals Program and which may be discharged by manufacturers, processors, and users of the chemical substance. Therefore, EPA generally includes disposal provisions in new chemical SNURs when it determines that disposal of the substance may not be adequately addressed by existing rules under other statutes. However, the SNUR regulations in § 721.30 provide the opportunity for persons who intend to manufacture, import, or process a chemical substance subject to a SNUR to request a "determination of equivalency" from EPA. In such a request, the person must demonstrate that their intended activities will provide substantially the same degree of protection to health and the environment as the measures identified in the SNUR to control environmental release. Similarly, a person who intends to manufacture, import, or process a chemical substance subject to a SNUR can submit a SNUN that provides such "equivalency" information (e.g., specific NPDES or pretreatment limits for a specific facility or industry that will control the pollutants of concern).

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

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 SNUR rather than as of the effective date of the final rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements because a person could defeat the SNUR by initiating the proposed significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the final rule.

Any person who began commercial manufacture, import, or processing of the chemical substance PMN P-04-269 for any of the significant new uses designated in the proposed SNUR after the date of publication of the proposed SNUR must stop that activity before the effective date of this final rule. Persons who ceased those activities will have to meet all SNUR notice requirements and wait until the end of the notification review period, including all extensions, before engaging in any activities designated as significant new uses. If, however, persons who began manufacture, import, or processing of

the chemical substance between the date of publication of the proposed SNUR and the effective date of this final SNUR meet the conditions of advance compliance as codified at § 721.45(h), those persons would be considered to have met the final SNUR requirements for those activities.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. There are two exceptions:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In this case, EPA recommends persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

In the TSCA section 5(e) consent order for the chemical substance regulated under this final rule, EPA has established requirements for the use of dermal personal protective equipment, including gloves demonstrated to be impervious; use of respiratory personal protective equipment, including a National Institute of Occupational Safety and Health (NIOSH)-approved respirator with an assigned protection factor (APF) of at least 150, or compliance with an alternative NCEL of 0.1 mg/m³ as an 8-hour time weighted average; establishment of a hazard communication program, and prohibits releases-to-water in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substance. These requirements will remain until such time as the PMN submitter provides the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by the chemical substance. A listing of the specific human health and environmental toxicity tests specified in the TSCA section 5(e) consent order is included in Unit IV. of the proposed rule. The SNUR contains notification

requirements that mirror the restrictions in the TSCA section 5(e) consent order. Significant new uses under this SNUR are activities restricted in the TSCA section 5(e) consent order. Persons who intend to commence any of these activities identified as a significant new use must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture, import, or processing.

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

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

- Human exposure and environmental release that may result from the significant new use of the chemical 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

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 on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

IX. Economic Analysis

EPA evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substance during the development of the direct final rule. The Agency's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2009–0922.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes a SNUR for a chemical substance that was the subject of a PMN and a TSCA section 5(e) consent order. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does 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 will not have a significant adverse economic impact on a substantial number of small entities. 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 final 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 SNURs covering over 1,000 chemicals, the Agency receives only a handful of notices per year. For example, the number of SNUNs was four in Federal fiscal year (FY) 2005, eight in FY 2006, six in FY 2007, eight in FY 2008, and seven in FY 2009. During this five-year period, three small entities submitted a SNUN. 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 will be impacted by this final rule. As such, EPA has determined that this final rule does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

E. Executive Order 13132

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

F. Executive Order 13175

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

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

In addition, since this action does not involve any technical standards, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: August 1, 2011.

Barbara A. Cunningham,

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

■ 2. The table in § 9.1 is amended by adding the following section in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *				
40 CFR citation		OMB control No.		
* * * * *				
Significant New Uses of Chemical Substances				
* * * * *				
721.10201			2070-0012	
* * * * *				

PART 721—[AMENDED]

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

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

■ 4. Add § 721.10201 to subpart E to read as follows:

§ 721.10201 Cobalt lithium manganese nickel oxide.

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

(1) The chemical substance identified as cobalt lithium manganese nickel oxide (PMN P-04-269; CAS No. 182442-95-1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5), (a)(6), (b) (concentration set at 0.1 percent), and (c). Respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 150. The following NIOSH-certified respirators meet the requirements of § 721.63(a)(4): Supplied-air respirator operated in positive pressure demand or other positive pressure mode and equipped with a tight-fitting full facepiece. As an alternative to the respirator requirements listed here, a manufacturer, importer, or processor may choose to follow the New Chemical Exposure Limit (NCEL) provisions listed in the Toxic Substances Control Act

(TSCA) section 5(e) consent order for this substance. The NCEL is 0.1 mg/m³ as an 8-hour time-weighted average. Persons who wish to pursue NCELS as an alternative to the § 721.63 respirator may request to do as under § 721.30. Persons whose § 721.30 requests to use the NCELS approach are approved by EPA will receive NCELS provisions comparable to those listed in the corresponding section 5(e) consent order.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(vii), (g)(1)(ix), (g)(2), (g)(3), (g)(4)(iii), and (g)(5).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

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

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of this chemical substance.

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

[FR Doc. 2011-20021 Filed 8-5-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2011-0211; FRL-9446-6]

Approval and Promulgation of Air Quality Implementation Plans; State of California; Interstate Transport of Pollution; Interference With Prevention of Significant Deterioration Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a state implementation plan (SIP) revision submitted by the State of California on November 17, 2007, to address the “transport SIP” provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 fine particulate matter (PM_{2.5}) NAAQS. Section 110(a)(2)(D)(i) of the CAA requires that each SIP contain, among other things,

adequate measures prohibiting emissions of air pollutants in amounts which will interfere with any other State’s measures required under title I, part C of the CAA to prevent significant deterioration of air quality. EPA is approving California’s SIP revision with respect to those Districts that implement SIP-approved permit programs meeting the approval criteria and simultaneously disapproving California’s SIP revision with respect to those Districts that do not implement SIP-approved permit programs meeting the approval criteria, as discussed in our May 31, 2011 proposed rule (76 FR 31263).

DATES: This final rule is effective September 7, 2011.

ADDRESSES: EPA has established a docket for this action under EPA-R09-OAR-2011-0211. The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material) and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which 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.

FOR FURTHER INFORMATION CONTACT: Rory Mays, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 972-3227, mays.rory@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “we”, “us”, and “our” refer to EPA.

I. Summary of the Proposed Actions

On May 31, 2011 (76 FR 31263), EPA proposed a limited approval and limited disapproval of a SIP revision submitted by the California Air Resources Board (CARB) on November 17, 2007, to address the “transport SIP” provisions of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and the 1997 PM_{2.5} NAAQS (2007 Transport SIP). Specifically, EPA proposed a limited approval and limited disapproval of the 2007 Transport SIP with respect to the requirement in CAA

section 110(a)(2)(D)(i)(II) that each SIP contain adequate measures prohibiting emissions of air pollutants in amounts which will interfere with any other State’s measures required under title I, part C of the CAA to prevent significant deterioration of air quality. We refer to this requirement as “element (3)” of section 110(a)(2)(D)(i).

A. Proposed Action With Respect to 1997 8-Hour Ozone NAAQS

We proposed the following actions with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS. For nine Districts¹ that are designated nonattainment and classified under subpart 2 of part D, title I of the CAA and that have SIP-approved nonattainment area new source review (NNSR) programs meeting the approval criteria discussed in our May 31, 2011 proposed rule, we proposed to approve the 2007 Transport SIP.

For three Districts² with nonattainment areas classified under subpart 2 for which NNSR SIP revisions were necessary to meet the approval criteria, we proposed to approve the 2007 Transport SIP if we finalized approval of the required NNSR SIP revisions by our July 10, 2011 Consent Decree deadline for final action on element (3) of the 2007 Transport SIP.³ Alternatively, for any of these Districts for which we could not approve the required NNSR SIP revision by our July 10, 2011 deadline, we proposed to disapprove the 2007 Transport SIP with respect to element (3) of CAA section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and to promulgate a limited NNSR Federal Implementation Plan (FIP) addressing the relevant requirements.

For two Districts⁴ with “former subpart 1” nonattainment areas that implement SIP-approved NNSR programs meeting the approval criteria,

¹ Antelope Valley Air Quality Management District (AQMD), Bay Area AQMD, El Dorado County Air Pollution Control District (APCD), Imperial County APCD, Mojave Desert AQMD, San Joaquin Valley APCD, South Coast AQMD, Ventura County APCD, and Yolo-Solano AQMD.

² Feather River AQMD, Placer County APCD, and Sacramento Metropolitan AQMD.

³ See *WildEarth Guardians v. U.S. EPA* (Case No. 4:09-CV-02453-CW), Consent Decree dated November 10, 2009, as amended by *Notice of Stipulated Extensions to Consent Decree Deadlines*, dated April 28, 2011 (establishing July 10, 2011 deadline for final action on element (3) of the 2007 Transport SIP). The July 10, 2011 deadline was further extended to July 29, 2011 by *Notice of Stipulated Extension to Consent Decree Deadlines*, dated July 7, 2011.

⁴ Eastern Kern APCD and San Diego County APCD.