

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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 18, 2002.

**Debra Edwards,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.436 is amended by removing from the table in paragraph (b) the entries barley, grain; cattle, fat; goat, fat; hog, fat; horse, fat; oat, grain; sheep, fat; and wheat, grain and by revising paragraph (a)(1) to read as follows:

#### § 180.436 Cyfluthrin; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane-carboxylate; CAS No. 68359-37-5) in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa .....	5.0
Alfalfa, hay .....	10.0
Barley, bran .....	5.0
Brassica, head and stem, subgroup .....	2.5
Carrot .....	0.20
Cattle, fat .....	10.0
Cattle, meat .....	0.40
Cattle, meat by-products .....	0.40
Citrus, dried pulp ..	0.3
Citrus, oil .....	0.3
Corn, field, forage ..	3.0
Corn, field, milled byproducts .....	7.0
Corn, field, refined oil .....	30.0
Corn, field, stover ..	6.0
Corn, pop, stover ..	6.0
Corn, sweet, forage .....	15.00

Commodity	Parts per million
Corn, sweet, kernel plus cob with husks removed ..	0.05
Corn, sweet, stover ..	30.00
Cotton, hulls .....	2.0
Cotton, refined oil ..	2.0
Cotton, seed .....	1.0
Egg .....	0.01
Fruit, citrus, group ..	0.2
Goat, fat .....	10.0
Goat, meat .....	0.40
Goat, meat byproducts .....	0.40
Grain, aspirated fractions .....	600
Grain, cereal, group .....	4.0
Hog, fat .....	10.0
Hog, meat .....	0.40
Hog, meat byproducts .....	0.40
Hop, dried cones ..	20.0
Hop, fresh .....	4.0
Horse, fat .....	10.0
Horse, meat .....	0.40
Horse, meat by-products .....	0.40
Lettuce, head .....	2.0
Lettuce, leaf .....	3.0
Milk .....	1.0
Milk, fat .....	30.0
Mustard greens .....	7.0
Oat, bran .....	5.0
Pea, dry .....	0.15
Pea, southern, succulent .....	0.25
Pepper .....	0.50
Potato .....	0.01
Poultry, fat .....	0.01
Poultry, meat .....	0.01
Poultry, meat by-products .....	0.01
Radish, roots .....	1.0
Rice, bran .....	6.0
Rice, hulls .....	18.0
Rye, bran .....	5.0
Sheep, fat .....	10.0
Sheep, meat .....	0.40
Sheep, meat by-products .....	0.40
Sorghum, grain, forage .....	2.0
Sorghum, grain, stover .....	5.0
Soybean, forage ...	8.0
Soybean, hay .....	4.0
Soybean, seed .....	0.03
Sugarcane, cane ..	0.05
Sugarcane, molasses .....	0.20
Sunflower, forage ..	5.0
Sunflower, seed ....	0.02
Tomato .....	0.20
Tomato, paste .....	0.5
Tomato, pomace ...	5.0
Wheat milled by-products, except flour .....	5.0

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[OPPT-2002-0030; FRL-7186-9]

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 eight 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 final rule is effective on November 26, 2002.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto: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](mailto: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

Categories	NAICS codes	Examples of potentially affected entities
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 or 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 ID number OPPT–2002–0030. 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 EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

## II. Background

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

The Agency proposed the revocation of these SNURs in the **Federal Register** of March 20, 2002 (67 FR 12950) (FRL–6820–7). 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 April 19, 2002. EPA received three comments 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. Statutory and Executive Order Reviews

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.*

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.

Since this rule does not impose any requirements it does not require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4).

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).

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or 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 6, 2000), do not apply to this rule.

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.

This 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.

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.

This action does not involve special considerations of environmental justice related issues 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).

EPA has complied with Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988), by examining the takings implications of this rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order.

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

#### 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 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: September 5, 2002.

Charles M. Auer,

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).

**§§ 721.3628, 721.5300, and 721.8170 [Removed]**

2. By removing §§ 721.3628, 721.5300, and 721.8170.

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#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Medicare & Medicaid Services

#### 42 CFR Part 408

[CMS-1221-F]

RIN 0938-AK42

#### Medicare Program; Supplementary Medical Insurance Premium Surcharge Agreements

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements legislation contained in section 1839(e) of the Social Security Act (the Act). That statute authorizes a Medicare premium payment arrangement whereby State and local government agencies can enter into an agreement with the Secretary to make periodic lump sum payments for the Supplementary Medical Insurance (SMI) late enrollment premium surcharge amounts due for a designated group of eligible enrollees. Under this rule, we define and set out the basic rules for the new SMI premium surcharge billing agreement. In order to give States additional time for implementation of the provisions of this

final rule, we are delaying the rule's effective date to six months from the date of its publication in the **Federal Register**.

**EFFECTIVE DATE:** This final rule is effective March 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Sandra Clarke, (410) 786-7451.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 1839(e) of the Social Security Act (the Act), as amended by section 144 of the Social Security Act Amendments of 1994 (Pub. L. 103-432, October 31, 1994), allows States to enter into agreements with us to pay a lump sum for the Part B premium late enrollment surcharge amounts due for a designated group of eligible enrollees. Section 4582 of the Balanced Budget Act of 1997 (Pub. L. 105-33) (BBA) amended the Act by adding language that allows local government agencies to also pay the surcharge. Under section 4582 of the BBA, any appropriate State or local government agency specified by the Secretary may enter into a Supplementary Medical Insurance (SMI) premium surcharge agreement.

This legislation was requested to enable State and local government agencies that are no longer offering a health benefits package to their retirees to pay the SMI late enrollment premium surcharge on a lump sum basis for their retirees who consequently enrolled or reenrolled in the Medicare program.

While covered by the State or local government agency health care plans, some retirees, who believed that these health plans would be sufficient to cover their health care needs, chose not to enroll in Medicare when they first became eligible, or enrolled and subsequently canceled their Medicare coverage. In some cases, these retirees were subsequently notified by their State or local government retirement offices that those agencies would no longer offer a health benefit package to their retirees. The agencies recommended that their retirees enroll or reenroll in Medicare. When they did so, some retirees learned that they would be subject to Medicare's late enrollment premium surcharge. Consequently, State and local government retirement offices contacted us and requested either a waiver of the surcharge or establishment of a special enrollment period for the affected retirees. We denied these requests and determined that the affected retirees were subject to the late enrollment premium surcharge. This prompted some State and local government retirement offices to offer to pay the