

Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on January 22, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

Dated: January 22, 1998.

**Matthew Hale,**

*Acting Director, Office of Solid Waste.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[OPPTS-50620D; FRL-5757-3]

RIN 2070-AB27

#### Butanamide, 2,2'-[3'-dichloro[1,1'-biphenyl]-4,4'-diyl]bisazobis N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-; Significant New Use Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as butanamide, 2,2'-[3'-dichloro[1,1'-biphenyl]-4,4'-diyl]bisazobis N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo- which is the subject of premanufacture notice (PMN) P-93-1111. This rule would require persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

**DATES:** This rule is effective March 6, 1998.

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

#### SUPPLEMENTARY INFORMATION:

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

This final SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of P-93-1111 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

#### I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

#### II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions

which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

#### III. Background and Response to Comments

EPA published a direct final SNUR for the chemical substance, which was the subject of PMN P-93-1111 and a TSCA section 5(e) consent order issued by EPA in the **Federal Register** of March 1, 1995 (60 FR 11033) (FRL-4868-4). EPA received a notice of intent to submit adverse comments for this chemical substance following publication. Therefore, as required by § 721.160, the final SNUR for P-93-1111 was withdrawn on June 26, 1997 (62 FR 34413) (FRL-5723-3) and a proposed rule on the substance was issued on June 26, 1997 (62 FR 34424) (FRL-5723-4).

The background and reasons for the SNUR are set forth in the preamble to the proposed rule. EPA received one comment concerning the category of substances which is the basis of this rule but not on the issuance of this specific rule. EPA's response to the comment is discussed in this document and EPA is issuing the final rule.

The commenter agreed with hazard and risk concerns for release of 3,3'-dichlorobenzidine (DCB) from processing or use of DCB pigments at high temperatures (greater than 200 degrees centigrade) as described in the category statement for "Dichlorobenzidine-based Pigments," found in the document "TSCA New Chemicals Program (NCP) Chemical Categories" (<http://www.epa.gov/opptintr/chemcat>). The commenter disagreed with EPA's category statement that pigments containing DCB may biodegrade in the environment over a period of months. The commenter stated that diarylide pigments containing DCB have been extensively tested for breakdown in living organisms and found to remain intact, that diarylide pigments do not bioaccumulate or bioconcentrate in organisms, and that there is no evidence for the biodegradation of diarylide pigments over a period of months. However, the commenter submitted no data to support the contention concerning the biodegradation of diaryl pigments.

EPA is neither disputing that DCB pigments are relatively stable nor

contending that these pigments bioaccumulate or bioconcentrate in living organisms. EPA's concern for substances that fall within this category are based solely on the potential release, toxicity, and bioaccumulation of DCB. As stated in the category statement and the section 5(e) consent order for P-93-1111, EPA is concerned for the potential anaerobic biodegradation of these types of pigments if they reach sediments. EPA does not have data that indicate these substances do not biodegrade in the environment over a period of months. If any currently ongoing or unpublished anaerobic or natural sediment biodegradation studies can address this issue, EPA encourages the commenter to submit these data. While EPA does not expect any significant anaerobic biodegradation of DCB pigments under typical conditions of processing, use, and disposal (as permitted under the terms of the TSCA section 5(e) consent order and SNUR), it is appropriate and reasonable to identify testing that would address potential risks to human health and the environment in the event of more widespread use and greater production volume, and consequently greater potential for release of and exposure to this (or other) DCB based pigments. This is especially prudent when considering the significant cancer potency of 3,3'-dichlorobenzidine. Although the existence of a category for DCB-based pigments does not represent a policy of regulation for such substances per se, EPA will continue to evaluate the potential risk for these types of PMN substances based on all relevant use, exposure, and environmental release information available at the time of the PMN submission.

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

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on March 1, 1995, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses

that would be regulated through this SNUR after March 1, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

#### **V. Economic Analysis**

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in the final rule. The Agency's complete economic analysis is available in the public record for this final rule (OPPTS-50620D).

#### **VI. Public Record**

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-50620D (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Non Confidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

#### **VII. Regulatory Assessment Requirements**

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

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

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

#### **VIII. Submission to Congress and the General Accounting Office**

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**.

This is not a major rule as defined by 5 U.S.C. 804(2).

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

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

Dated: January 23, 1998.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

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

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

2. By adding new § 721.1907 to subpart E to read as follows:

**§ 721.1907 Butanamide, 2,2'-[3'dichloro[1,1'-biphenyl]-4,4'-diyl]bisazobis N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo-**

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

(1) The chemical substance generically identified as butanamide, 2,2'-[3'dichloro[1,1'-biphenyl]-4,4'-diyl]bisazobis N-2,3-dihydro-2-oxo-1H-benzimidazol-5-yl)-3-oxo- (PMN P-93-1111) 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) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5). The following additional statements shall appear on each label and Material Safety Data Sheet (MSDS) as specified by this paragraph: This substance decomposes in polymers or sheet metal coatings at temperatures greater than 280 °C to give 3,3' DCB a suspect human carcinogen.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and processing or use at temperatures above 280 °C.

(iii) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1). When the substance is processed or used as a colorant for dyeing plastics, this section does not apply.

(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), (f), (g), (h), (i), and (k) 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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#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 302-10

[FTR Amendment 69]

RIN 3090-AG62

#### Federal Travel Regulation; Ship Privately Owned Vehicles (POV)—International

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal Travel Regulation (FTR) to allow an agency to authorize or approve the return transportation of a privately owned vehicle (POV) from outside the continental United States (OCONUS). This amendment allows for POV shipments from OCONUS to continental United States (CONUS) in those cases where no POV was shipped to the OCONUS post of duty.

**DATES:** This final rule is retroactively effective May 14, 1997, and applies to an employee whose effective date of transfer (date the employee reports for duty at the new official station) is on or after May 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Calvin L. Pittman, Travel and Transportation Management Policy Division (MTT), Washington, DC 20405, telephone 202-501-1538.

**SUPPLEMENTARY INFORMATION:** A multi-agency travel reinvention task force was organized in August 1994 under the auspices of the Joint Financial Management Improvement Program (JFMIP) to reengineer Federal travel rules and procedures. The task force developed 25 recommended travel management improvements published in a JFMIP report entitled *Improving Travel Management Governmentwide*, dated December 1995. One recommendation suggested giving agencies the flexibility to authorize and pay for the shipment of a POV (from a post of duty outside the United States), back to the United States even though a POV was not originally shipped to the overseas post of duty.

Currently the FTR specifies that a transferee whose POV was transported

at Government expense to an official station outside the continental United States (CONUS) may have that vehicle returned to the United States at Government expense (not to exceed certain limitations). Thus, return of a POV (not necessarily the same vehicle) to the United States when the overseas tour is completed requires that a POV must have been shipped at Government expense to the overseas official station. Transferees who are relocated overseas without a POV, but who acquire a vehicle overseas, cannot avail themselves of this benefit.

This amendment provides agencies with the flexibility to authorize and pay for the shipment of a POV (from a post of duty outside the United States) back to the United States even though a POV was not originally shipped to the overseas post of duty.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

#### List of Subjects in 41 CFR Part 302-10

Government employees, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR chapter 302 is amended as follows:

#### PART 302-10—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY STORAGE OF A PRIVATELY OWNED VEHICLE

1. The authority citation for part 302-10 is amended to read as follows:

**Authority:** 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

#### Subpart C—Return Transportation of a POV From a Post of Duty

2. Section 302-10.200 is amended by revising the section heading and paragraph (b) to read as follows:

**§ 302-10.200 When am I eligible for transportation of a POV from my post of duty?**

\* \* \* \* \*

(b) You have a POV at the post of duty.

3. Section 302-10.201 is amended by revising paragraphs (d) and (e) to read as follows: