

EPA—APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
Ozone (8-Hour, 1997).	Steubenville-Weirton (Jefferson County)	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Toledo (Lucas and Wood Counties) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Wheeling (Belmont County) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Youngstown (Columbiana, Mahoning and Trumbull Counties).	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 2015).	Columbus (Delaware, Fairfield, Franklin, and Licking Counties).	4/23/2019	8/21/2019, 84 FR 43508.	
*	*	*	*	*

[FR Doc. 2019-24937 Filed 11-18-19; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[EPA-HQ-OPPT-2017-0464; FRL-10001-43]

RIN 2070-AB27

**Significant New Use Rules on Certain Chemical Substances (17-3); Technical Correction**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 18, 2019 for 19 chemical substances that were the subject of premanufacture notices (PMNs). For the chemical substance that was the subject of PMN P-17-170, EPA made several errors when including hazard communication requirements. Certain references are inconsistent with the hazards identified for this chemical substance by EPA. This document is being issued to correct these errors.

**DATES:** This technical correction is effective on November 19, 2019.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2017-0464, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through

Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Kenneth Moss, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: [moss.kenneth@epa.gov](mailto: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; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What does this technical correction do?**

EPA issued a final rule in the **Federal Register** of September 18, 2019 (84 FR 49025) (FRL-9998-12) for significant new uses for 19 chemical substances that were the subject of PMN notices. EPA made several errors when specifying hazard communication requirements for the chemical substance listed in the significant new use rule (SNUR) codified in 40 CFR 721.11107 (PMN P-17-170). This action corrects these errors as follows:

- In 40 CFR 721.11107—Alkanediol, 2,2-bis (substituted alkyl)-polymer with substituted alkane, heteromonocycles, alkenoate (generic); the hazard communication requirements in paragraph (a)(2)(ii) of the SNUR will be corrected to remove the reference to 40

CFR 721.72(g)(1)(v) and instead reference 40 CFR 721.72(g)(1)(iv). It will also be corrected to remove the reference to 40 CFR 721.72(g)(4).

**II. Why is this correction issued as a final rule?**

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. Correcting the hazard communication requirements specified in the September 18, 2019 SNUR is necessary for the proper identification of the human health and environmental hazards associated with PMN substance P-17-170 consistent with the associated TSCA section 5(e) Order for the substance. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

**III. Do any of the statutory and Executive Order reviews apply to this action?**

No. For a detailed discussion concerning the statutory and Executive Order review, refer to Unit XII. of the September 18, 2019 final rule.

**IV. Congressional Review Act (CRA)**

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), 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 action 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: November 5, 2019.

**Tala Henry,**

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

Therefore, 40 CFR part 721 is corrected 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. In § 721.11107, revise paragraph (a)(2)(ii) to read as follows:

**§ 721.11107 Alkanediol, 2,2-bis (substituted alkyl)-polymer with substituted alkane, heteromonocycles, alkenoate (generic).**

(a) \* \* \*

(2) \* \* \*

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (e) (concentration set 0.1 percent), (f), (g)(1)(i), (ii), (iv), (vii), (ix), (respiratory sensitization), (g)(2)(i), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 75

#### Notification of Nonenforcement of Health and Human Services Grants Regulation

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notification of exercise of enforcement discretion.

**SUMMARY:** This notification is to inform the public that the U.S. Department of Health and Human Services (HHS) has determined that the rulemaking that resulted in the regulatory provisions promulgated on Dec. 12, 2016, regarding HHS’s grant regulations, raises significant concerns about compliance with the Regulatory Flexibility Act. The provisions will not be enforced pending

a repromulgation that complies with the Act.

**DATES:** November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Richard Brundage at (202) 401-6107.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services has determined that the rulemaking which promulgated or amended 45 CFR 75.101(f), 75.110(a), 75.300(c) and (d), 75.305(a), 75.365, 75.414(c) and (f), and 75.477, published at 81 FR 89393 (Dec. 12, 2016), raises significant concerns about compliance with the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* The Department has accordingly determined to exercise its enforcement discretion not to enforce the regulations until they have been repromulgated with a proper RFA analysis.

#### I. Statutory Background

The RFA generally requires that when an agency issues a proposed rule, or a final rule (after publishing a proposed rule) pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. The RFA is a “[p]urely procedural” statute, but “set[s] out precise, specific steps an agency must take.” *Nat’l Telephone Co-op Ass’n v. FCC*, 563 F.3d 536, 540 (D.C. Cir. 2009) (internal quotation marks omitted). Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a “small entity” as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA);<sup>1</sup> (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6).<sup>2</sup> The requirement does not apply if the head of the agency “certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” *Id.* section 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of

<sup>1</sup> Depending on the industry, SBA considers businesses to be small by virtue of having less than between \$7.5 million and \$38.5 million in average annual revenue.

<sup>2</sup> The Department considers a rule to have a significant economic impact on a substantial number of small entities if at least 5% of small entities experience an impact of more than 3% of revenue.

publication of the proposed or final rule, “along with a statement providing the factual basis for such certification.” *Id.* The RFA also requires the agency to provide the certification and the statement with the factual justification to the SBA Chief Counsel for Advocacy. *Id.*

If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA’s waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b).<sup>3</sup> In addition, the RFA provides for judicial review of an agency’s compliance with its provisions under some circumstances, which can result in a court ordering the agency to take corrective action by remanding the rule to the agency and deferring enforcement of the rule against small entities. *Id.* section 611(a)(4).

#### II. Absence of RFA Analysis or Certification

The rulemaking that promulgated and amended 45 CFR 75.101(f), 75.110(a), 75.300(c) and (d), 75.305(a), 75.365, 75.414(c) and (f), and 75.477, published at 81 FR 89393 (Dec. 12, 2016), raises significant concerns about compliance with the requirements of the RFA, 5 U.S.C. 601 *et seq.* The Department neither performed the RFA analysis described in 5 U.S.C. 602–604, nor expressly certified that the rules “will not . . . have a significant economic impact on a substantial number of small entities” and provided a statement with the factual basis for such certification as provided for by section 605(b). *See* 81 FR 89393 (Dec. 12, 2016). The rulemaking simply declared that it would “not have a significant economic

<sup>3</sup> Section 608(b) provides that except as provided in section 605(b), an agency head may not waive the requirements of section 604 for final rules. An agency head may delay the completion of the requirements of section 604 of the title for a period of not more than one hundred and eighty days after the date of publication in the **Federal Register** of a final rule by publishing in the **Federal Register**, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of the title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of the title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency. 5 U.S.C. 608(b).