(b) Distribution Requirements. Except as provided in paragraph (c), and except for end users who will conduct no further processing of the PMN substance, the Company is permitted to distribute the PMN substance outside the Company, other than for disposal, only to ~~a~~ persons ~~-~~who have~~s~~ agreed in writing prior to the date of distribution, to:

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(1) Notify in writing any person to who it distributes the PMN substance that, due to the issuance of this Consent Order under section 5(e) of TSCA, the PMN substance is subject to the export notification requirement of TSCA section 12(b) and 40 CFR Part 707 Subpart D. Such notice must contain, in the form in which it appears in this Consent Order, the following information: (1) the PMN number, and (2) either (A) the specific chemical identity of the PMN substance, or (B) if the specific chemical identity is confidential, the generic chemistry identity.

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(2) Not further distribute the PMN substance to any other persons, other than for disposal, *unless* the Company obtains, in writing prior to the date of distribution, such person's agreement likewise to obtain a written agreement from any other recipient to whom the PMN substance is further distributed, that such recipient will comply with all requirements and restrictions set forth in this paragraph and will also obtain a written agreement from any additional recipients to comply with the requirements and restrictions in this paragraph. If at any time after commencing distribution of the PMN substance, the Company has knowledge that a person or recipient of the PMN substance is not complying with the requirements and restrictions of this paragraph, the Company will cease supplying

the PMN substance to such person, [unless the Company is able to document each of the following: (i) the Company has notified the person or recipient and EPA enforcement authorities, in writing within 15 working days of the time the Company develops knowledge that the person or recipient is not complying with the requirements and restrictions of this paragraph, that such person or recipient is not complying with the requirements and restrictions of this paragraph; (ii) that, within 15 working days of notifying the person or recipient as described in paragraph (b)(2)(i), the Company received from the person or recipient, in writing, a statement of assurance that the person or recipient is aware of and will comply with the requirements and restrictions of this paragraph; and (iii) that the Company has promptly provided EPA enforcement authorities with a copy of the person's or recepient's statement of assurance described in paragraph (b)(2)(ii). The copy must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance (2224A), U.S. Environmental Protection Agency, Ariel Rios, 1200 Pennsylvania Ave., N.W., Washington, DC, 20044.]

Commented [A1]: This is part of 40 CFR 721.5. It might not cover all potential circumstances of non-compliance because this would be only when the Company obtains knowledge. Putting this requirement on anyone in the supply chain may prove too unwieldy but it could be considered. In addition, if the PMN submitter must cut off supply unless it can document downstream compliance, EPA may find more comfort that the PMN submitter has strong incentive to enforce its agreements (or risk the entire supply chain).

(3) Comply with the same requirements and restrictions, if any, required of the Company in the Protection of the Workplace section.

(4) Not process or use the PMN substance in any manner or method that generates mist, vapor, aerosol, or dust.

(c) Temporary Transport and Storage.