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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA-HQ-OPPT-2018-0159; FRL-9978-76]

RIN 2070–AK45

Asbestos; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), EPA is proposing a significant new use rule (SNUR) for asbestos as defined under the Asbestos Hazard Emergency Response Act. The proposed significant new use of asbestos (including as part of an article) is manufacturing (including importing) or processing for certain uses identified by EPA as no longer ongoing. The Agency has found no information indicating that the following uses are ongoing, and therefore, the following uses are subject to this proposed SNUR: adhesives, sealants, and roof and non-roof coatings; arc chutes; beater-add gaskets; extruded sealant tape and other tape; filler for acetylene cylinders; high-grade electrical paper; millboard; missile liner; pipeline wrap; reinforced plastics; roofing felt; separators in fuel cells and batteries; vinyl-asbestos floor tile; and any other building material (other than cement). Persons subject to the SNUR would be required to notify EPA at least 90 days before commencing any manufacturing (including importing) or processing of asbestos (including as part of an article) for a significant new use. The required notification initiates EPA's evaluation of the conditions of use associated with the intended use within the applicable review period. Manufacturing (including

importing) and processing (including as part of an article) for the significant new use may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination.

DATES: Comments must be received on or before [*insert date* 60 *days after date of publication in the* **Federal Register**].

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2018-0159, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, DC 20460-0001.

• *Hand Delivery*: To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Robert Courtnage, National Program Chemicals Division (Mail Code 7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-1081; email address: *courtnage.robert@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.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture (including import), process, or distribute in commerce asbestos as defined by TSCA Title II, Section 202 (15 U.S.C. 2642) (including as part of an article). The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Construction (NAICS code 23)
- Manufacturing (NAICS codes 31 – 33)
- Wholesale Trade (NAICS code 42)
- Transportation (NAICS code 48)

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA (15 U.S.C.2601 *et seq.*). Persons who import or process any chemical substance governed by a final SNUR are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements and the

corresponding regulations at 19 CFR 12.118 through 12.127 (see also 19 CFR 127.28). Those persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B.

In addition, asbestos, as defined in this proposed rule, is already subject to TSCA section 6(a) (40 CFR part 763, subparts G and I) rules that trigger the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b); see also 40 CFR 721.20). Any person who exports or intends to export asbestos must comply with the export notification requirements in 40 CFR part 707, subpart D; however, although EPA is proposing to make inapplicable the exemption at 40 CFR 721.45(f) for persons who import or process any asbestos as part of an article in a category listed in Table 2, the Agency is not proposing to require export notification for articles containing asbestos.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical information contact listed under **FOR FURTHER INFORMATION CONTACT**.

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) (see Unit IV). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture (including import) or process the chemical substance for that use (15 U.S.C.

2604(a)(1)(B)(i)). TSCA further prohibits such manufacturing (including importing) or processing from commencing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination (15 U.S.C. 2604(a)(1)(B)(ii)). As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. What Action Is the Agency Taking?

EPA is proposing a SNUR for asbestos, using the definition in TSCA Title II, Section 202, which defines asbestos as the "asbestiform varieties of six fiber types – chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite." The proposed significant new use of asbestos (including as part of an article) is manufacturing (including importing) or processing for certain uses no longer ongoing. The Agency found no information indicating that the following uses are ongoing, and therefore, the following uses are subject to this proposed SNUR: adhesives, sealants, and roof and non-roof coatings; arc chutes; beater-add gaskets; extruded sealant tape and other tape; filler for acetylene cylinders; high-grade electrical paper; millboard; missile liner; pipeline wrap; reinforced plastics; roofing felt; separators in fuel cells and batteries; vinyl-asbestos floor tile; and any other building material (other than cement).

The Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114-182, 130 Stat. 448) amended TSCA in June 2016. The new law includes statutory requirements related to the risk evaluations of conditions of use for existing chemicals. Based on the 2014 update of EPA's TSCA Work Plan for Chemical Assessments, in December of 2016, EPA designated asbestos as one of the first 10 chemical substances

subject to the Agency's initial chemical risk evaluations (81 FR 91927), as required by TSCA section 6(b)(2)(A) (15 U.S.C. 2605(b)(2)(A)).

EPA is separately conducting a risk evaluation of asbestos under its conditions of use, pursuant to TSCA section 6(b)(4)(A). Through scoping and subsequent research for the asbestos risk evaluation, EPA identified several conditions of use of asbestos to include in the risk evaluation. Those include imported raw bulk chrysotile asbestos for the fabrication of diaphragms for use in chlorine and sodium hydroxide production and several imported chrysotile asbestos-containing materials, including sheet gaskets for use in titanium dioxide chemical production, brake blocks for use in oil drilling, aftermarket automotive brakes/linings and other vehicle friction products, other gaskets and packing, cement products, and woven products. This proposed significant new rule would not identify as significant new uses those uses that EPA believes are currently ongoing. EPA is requesting public comment on this proposal and welcomes specific and verifiable documentation of any ongoing uses not identified by the Agency as well as additional uses not identified as no longer ongoing. This proposed SNUR would require persons that intend to manufacture (including import) or process any form of asbestos as defined under Title II of TSCA (including as part of an article) for a significant new use, consistent with the requirements at 40 CFR 721.25, to notify EPA at least 90 days before commencing such manufacturing (including importing) or processing. This proposed SNUR would preclude the commencement of such manufacturing (including importing) or processing until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination.

D. Why Is the Agency Taking this Action?

This proposed SNUR is necessary to ensure that EPA receives timely advance notice of any future manufacturing (including importing) or processing of asbestos (including as part of an article) for new uses that may produce changes in human and environmental exposures, and to ensure that an appropriate determination (relevant to the risks associated with such manufacturing (including importing), processing, and use) has been issued prior to the commencement of such manufacturing (including importing) or processing. Today's action is furthermore necessary to ensure that manufacturing (including importing) or processing for the significant new use cannot proceed until EPA has responded to the circumstances by taking the required actions under Sections 5(e) or 5(f) of TSCA in the event that EPA determines any of the following: (1) that the significant new use presents an unreasonable risk under the conditions of use (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); (2) that the information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use; (3) that, in the absence of sufficient information, the manufacturing (including importing), processing, distribution in commerce, use, or disposal of the substance, or any combination of such activities, may present an unreasonable risk (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); or (4) that there is substantial production and sufficient potential for environmental release or human exposure (as defined in TSCA section 5(a)(3)(B)(ii)(II)).

There is a strong causal association between asbestos exposure and lung cancer and mesotheliomas (tumors arising from the thin membranes that line the chest (thoracic) and abdominal cavities and surround internal organs) (Ref. 1; Ref. 2; Ref. 3; Ref. 4; Ref. 5; Ref. 6). In addition, other cancers, as well as non-cancer effects, such as respiratory and immune effects, have been associated with asbestos exposure (Ref. 7).

Agency research conducted in support of the TSCA risk evaluation of asbestos revealed that the use of asbestos has declined dramatically in the United States since the 1970s when asbestos use was at its peak. EPA is taking action in this proposed rule to ensure that EPA receives timely advance notice and makes an appropriate determination prior to the commencement of manufacturing (including importing) or processing for any significant new use of asbestos (including as part of an article) as identified in Table 2. The rationale and objectives for this proposed SNUR are explained in detail in Unit III.

E. What are the Estimated Incremental Impacts of this Action?

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substance included in this proposed rule. This Economic Analysis (Ref. 8), which is available in the docket, is discussed in Unit IX. and is briefly summarized here.

In the event that a SNUN is submitted, costs are estimated to be less than $10,000 per SNUN submission for large business submitters and $8,000 for small business submitters. In addition, for persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country, which is estimated to be approximately $96 per notification. However, asbestos is already subject to TSCA section 6(a) rules (40 CFR part 763, subparts G and

I) that trigger the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b); see also 40 CFR 721.20), and the Agency is not proposing to require export notifications for articles containing asbestos as articles are generally excluded from the TSCA section 12(b) export notification requirements. Therefore, EPA assumes no additional costs under TSCA section 12(b) for this proposed rule.

The proposed rule may also affect firms that plan to import or process articles that may be subject to the SNUR. Although there are no specific requirements in the rule for these firms, they may choose to undertake some activity to assure themselves they are not undertaking a new use. In the accompanying Economic Analysis for this proposed SNUR (Ref. 8), example steps (and their respective costs) that an importer or processor might take to identify asbestos in articles are provided. These steps can include gathering information through agreements with suppliers, declarations through databases or surveys, or use of a third-party certification system. Additionally, importers may require suppliers to provide certificates of testing analysis of the products or perform their own laboratory testing of certain articles. EPA is unable to predict, however, what, if any, particular steps an importer might take; thus, potential total costs were not estimated.

II. Chemical Substances Subject to this Proposed Rule and Associated Background Information

A. What Chemicals Are Included in the Proposed SNUR?

This proposed SNUR applies to asbestos, using the definition in TSCA Title II (added to TSCA in 1986), Section 202, which defines asbestos as the "asbestiform varieties of six fiber types – chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite." This proposed SNUR

applies to the manufacturing (including importing) or processing of asbestos (including as part of an article) for certain uses no longer ongoing. EPA found no information indicating that the following uses are ongoing, and therefore, the following uses are subject to this proposed SNUR: adhesives, sealants, and roof and non-roof coatings; arc chutes; beater-add gaskets; extruded sealant tape and other tape; filler for acetylene cylinders; high-grade electrical paper; millboard; missile liner; pipeline wrap; reinforced plastics; roofing felt; separators in fuel cells and batteries; vinyl-asbestos floor tile; and any other building material (other than cement). Under this proposed SNUR, the exemption at 40 CFR 721.45(f) would not apply to persons who import or process asbestos as part of an article (which includes as a component of an article) because there is reasonable potential for exposure to asbestos if the substance is incorporated into articles and then imported or processed. However, in accordance with the impurity exclusion at 40 CFR 721.45(d), this proposed significant new use rule would not apply to persons who manufacture (including import) or process asbestos (including as part of an article) only as an impurity.

B. What Are the Production Volumes and Uses of Asbestos?

Asbestos has not been mined or otherwise produced in the United States since 2002; therefore, any new raw bulk asbestos used in the United States is imported. According to the U.S. Geological Survey (USGS), approximately 300 metric tons of raw bulk asbestos was imported into the United States in 2017 (Ref. 9). Chrysotile is the only form of raw bulk asbestos currently imported, and the chlor-alkali industry is the only known importer (Ref. 9). EPA did not identify any domestic entity that uses raw bulk asbestos other than the chlor-alkali industry, which uses chrysotile asbestos to fabricate

diaphragms for use in chlorine and sodium hydroxide production.

In an effort to identify national import volumes and conditions of use for the asbestos risk evaluation under TSCA section 6(b)(4)(A), EPA searched a number of available data sources including EPA's Chemical Data Reporting (CDR) database, USGS's Mineral Commodities Summary and the Minerals Yearbook, the U.S. International Trade Commission's Dataweb, the U.S. Customs and Border Protection's Automated Commercial Environment (ACE) System, and the *Use and Market Profile for Asbestos* (EPA-HQ-OPPT-2016-0736-0085). Based on this search, EPA published a preliminary list of information and sources related to asbestos conditions of use (see *Preliminary Information on Manufacturing, Processing, Distribution, Use, and Disposal: Asbestos*, EPA-HQ-OPPT-2016-0736-0005) prior to a February 2017 public meeting on the scoping efforts for the risk evaluation convened to solicit public comment. EPA also convened meetings with companies, associated industry groups, chemical users and other stakeholders to aid in identifying conditions of use and verifying conditions of use identified by EPA. On June 22, 2017, EPA published the *Scope of the Risk Evaluation for Asbestos* (EPA-HQ-OPPT-2016-0736-0086), which further provided opportunity for the public and private sector to identify conditions of use of asbestos in the United States.

During the public comment period for the *Preliminary Information on Manufacturing, Processing, Distribution, Use, and Disposal: Asbestos* (EPA-HQ-OPPT-2016-0736-0005), one company identified the use of asbestos-containing gaskets, which are imported, for use during the production of titanium dioxide. During stakeholder discussions another company confirmed importing and distributing brake blocks for use in drawworks by the oil industry. EPA believes that aftermarket automotive

brakes/linings and other vehicle friction products, other gaskets and packing, cement products, and woven products containing asbestos could also be imported, as reported by USGS (Ref. 10) and also appear in data from ACE (Ref. 11); however, the volume of products and the quantity of asbestos within imported products is unknown. ACE is not a publicly accessible database because it contains information that is protected under the provisions of Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and the Trade Secrets Act (18 U.S.C. 1905), and the information in ACE related to importer identity cannot be released.

C. What Are the Potential Health Effects of Asbestos?

Asbestos was listed as a known human carcinogen in the National Toxicology Program's *First Annual Report on Carcinogens* in 1980 (Ref. 1). In 1988, EPA assessed the health hazards and effects caused by exposure to asbestos under the Integrated Risk Information System (IRIS) program, and determined that asbestos exposure can lead to lung cancer and mesotheliomas (tumors arising from the thin membranes that line internal organs) (Ref. 2). Many authorities have established that there is causal association between asbestos and lung cancer and mesotheliomas (Ref. 1; Ref. 3; Ref. 4). EPA also noted in the *Scope of the Risk Evaluation for Asbestos* that there is a causal association between exposure to asbestos and cancer of the larynx and cancer of the ovary (Ref. 4). There is also suggestive evidence of a positive association between asbestos and cancer of the pharynx (Ref. 4; Ref. 12), stomach (Ref. 3; Ref. 4), and colorectum (Ref. 1; Ref. 3; Ref. 4; Ref. 12; Ref. 13; Ref. 14). All types of asbestos fibers have been reported to cause mesothelioma. (Ref. 4).

Increases in lung cancer mortality have been reported in both workers and

residents exposed to various asbestos fiber types as well as fiber mixtures (Ref. 4). There is evidence in in-vitro, animal, and human studies that asbestos is genotoxic, meaning asbestos can damage an organism's genetic material (Ref. 3). There is also evidence that asbestos exposure is associated with adverse respiratory system effects, such as asbestosis and immunotoxicity (Ref. 3; Ref. 7).

D. What Are the Potential Routes and Sources of Exposure to Asbestos

The greatest risk of exposure to asbestos occurs when the substance is in a friable state, meaning the fibers can be crumbled, pulverized or reduced to a powder under hand pressure (Ref. 3). During use and over time, non-friable asbestos has the potential to become friable (Ref. 3). For example, testing has shown that non-friable asbestos-containing material can become friable during use such as cutting, crumbling, and tearing, and as a result of such use, asbestos fibers can be released into the air (Ref. 15). Similarly, non-friable asbestos-containing building materials can release fibers if disturbed during building repair or demolition (Ref. 16). Exposures to workers, consumers and the general population, as well as environmental receptors, may occur from industrial releases and use of asbestos-containing products. Based on EPA's research conducted during the early stages of the TSCA risk evaluation, most of the ongoing uses of asbestos pertain to industrial and commercial uses (Ref. 7).

The primary exposure route for asbestos is inhalation. Asbestos fibers can be released into the air during processing of raw bulk asbestos and asbestos-containing products. Weathering and the disturbance and/or degradation of asbestos-containing products can also cause asbestos fibers to be suspended in air (Ref. 3). Fibers can then enter the lungs through inhalation. Exposures to asbestos can potentially occur via oral

and dermal routes; however, EPA anticipates that the most likely exposure route is inhalation.

III. Rationale and Objectives

A. Rationale

EPA is concerned about the potential for adverse health effects of asbestos based on established sound scientific data indicating that asbestos is a known human carcinogen. Asbestos was listed as a human carcinogen in the National Toxicology Program's *First Annual Report on Carcinogens* in 1980 (Ref. 1).

Asbestos, in particular chrysotile asbestos, has several unique properties, including low electrical conductivity while maintaining high tensile strength, high friction coefficient, and high resistance to heat (Ref. 17). These properties made asbestos ideal for use in friction materials (e.g. brakes), insulation (e.g. sound, heat, and electrical), and building materials (e.g. cement pipes, roofing compounds, flooring) over the past century. However, the use of asbestos has declined dramatically due to health concerns and consumer preference (Ref. 17), which has led to the elimination of some exposure scenarios associated with such uses. According to USGS, in 1973, national consumption, including manufacturing/importing and processing, of raw bulk asbestos peaked around 800,000 metric tons and has since fallen approximately 99 percent to between 300 and 800 metric tons in recent years (Ref. 9). Today, most manufactured products in the United States are now asbestos-free (Ref. 17).

In 1989, EPA published a final rule *Asbestos: Manufacture, Importation, Processing, and Distribution in Commerce Prohibitions* (54 FR 29460, July 12, 1989) (FRL-3476-2), which was intended "to prohibit, at staged intervals, the future

manufacture, importation, processing and distribution in commerce of asbestos in almost all products, as identified in the rule . . ." and to "reduce the unreasonable risks presented to human health by exposure to asbestos during activities involving these products." The 1989 final rule applied to the asbestos product categories identified in the *Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products,* which was conducted in support of the rule (Ref. 20). However, the ban against most of the asbestos product categories was overturned by the Fifth Circuit Court of Appeals in 1991. In addition to the asbestos products that remain banned after the court ruling, which are identified in Table 1 below, any new use of asbestos was also banned. The prohibition on any new uses of asbestos is for uses initiated for the first time after August 25, 1989. As a point of clarification, in this proposed rulemaking, a significant new use of asbestos addresses multiple uses that were initiated prior to August 25, 1989, for which manufacturing and processing are no longer ongoing in the United States.

Table 1: Asbestos Containing Product Categories Banned Under TSCA Section 6

Product Category	**Definition (40 CFR 763.163)**
Corrugated Paper	Corrugated paper means an asbestos-containing product made of corrugated paper, which is often cemented to a flat backing, may be laminated with foils or other materials, and has a corrugated surface. Major applications of asbestos corrugated paper include: thermal insulation for pipe coverings; block insulation; panel insulation in elevators; insulation in appliances; and insulation in low-pressure steam, hot water, and process lines.

Rollboard	Rollboard means an asbestos-containing product made of paper that is produced in a continuous sheet, is flexible, and is rolled to achieve a desired thickness. Asbestos rollboard consists of two sheets of asbestos paper laminated together. Major applications of this product include: office partitioning; garage paneling; linings for stoves and electric switch boxes; and fire-proofing agent for security boxes, safes, and files.
Commercial Paper	Commercial paper means an asbestos-containing product that is made of paper intended for use as general insulation paper or muffler paper. Major applications of commercial papers are insulation against fire, heat transfer, and corrosion in circumstances that require a thin, but durable, barrier.
Specialty Paper	Specialty paper means an asbestos-containing product that is made of paper intended for use as filters for beverages or other fluids or as paper fill for cooling towers. Cooling tower fill consists of asbestos paper that is used as a cooling agent for liquids from industrial processes and air conditioning systems.
Flooring Felt	Flooring felt means an asbestos-containing product that is made of paper felt intended for use as an underlayer for floor coverings, or to be bonded to the underside of vinyl sheet flooring.

New Uses*	The commercial uses of asbestos not identified in §763.165 the manufacture, importation or processing of which would be initiated for the first time after August 25, 1989.
**Note: a "new use" as defined in 40 CFR 763.163 is distinct from a significant new use per TSCA section 5(a)(2), which is explained for the purposes of this proposed rule in Table 2.*	

As part of the information gathering activity associated with the current asbestos risk evaluation, the Agency researched market availability for the asbestos product categories subject to the 1989 asbestos ban and phase-out rule that was later overturned. EPA identified several asbestos product categories where manufacturing (including importing) and processing for the use is no longer ongoing. Through further refinement of the *Scope of the Risk Evaluation for Asbestos*, the Agency determined that asbestos-containing cement products (e.g., pipe, shingles and replacement parts) are the only condition of use of asbestos in building materials; therefore, this proposed SNUR also applies to all asbestos-containing building materials other than asbestos cement products. These product categories and descriptions are listed in Table 2, and manufacturing and processing for these product categories are significant new uses subject to this proposed rulemaking. The product category descriptions are based on the product category descriptions presented in the *Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products* for the 1989 final rule (Ref. 20) and may not be all-encompassing.

Table 2: Product Categories of Proposed Significant New Uses of Asbestos

Product Category	**Description of the Product Category**
Arc Chutes	Ceramic arc chutes containing asbestos were used to guide electric arcs in motor starter units in electric generating plants.
Beater-Add Gaskets	Asbestos fibers were incorporated within various elastomeric binders and other fillers to form the beater-add paper. These products were used extensively for internal combustion applications and for the sealing component of spiral wound gaskets. Gaskets were used to seal one compartment of a device from another in non-dynamic applications such as engine and exhaust manifolds.
Extruded Sealant Tape and Other Tape	Sealant tape was made from a semi-liquid mixture of butyl rubber and asbestos. On exposure to air, the sealant solidified forming a rubber tape about an inch wide and an eighth of an inch thick. The tape acted as a gasket for sealing building windows, automotive windshields, and mobile home windows. It was also used in the manufacture of parts for the aerospace industry and in the manufacture of insulated glass.
Filler for Acetylene Cylinders	Asbestos was used to produce a sponge-like filler, which held the liquefied acetylene gas (acetone) in suspension in the steel cylinder and puled the acetone up through the tank as the gas was released through the oxyacetylene torch. The torch was used to weld or cut metal and sometimes used as an illuminant gas. The filler also acted as an insulator that offered fire protection in case the oxidation of the

	acetylene became uncontrollable.
High-Grade Electrical Paper	The major use of asbestos electrical paper was insulation for high temperature, low voltage applications such as in motors, generators, transformers, switch gears, and other heavy electrical apparatuses.
Millboard	Asbestos millboard was essentially a heavy cardboard product that was used for gasketing, insulation, fireproofing, and resistance against corrosion and rot. Millboard was used in many industrial applications to include linings in boilers, kilns, and foundries; insulation in glass tank crowns, melters, refiners, and sidewalls in the glass industry; linings for troughs and covers in the aluminum, marine, and aircraft industries; and thermal protection in circuit breakers in the electrical industry. In addition, thin millboard was inserted between metal to produce gaskets. Commercial applications for millboard included fireproof linings for safes, dry-cleaning machines, and incinerators.
Missile Liner	A missile liner was an asbestos and rubber compound used to insulate the outer casing of the rocket from the intense heat generated in the rocket motor while the rocket fuel was burned. Rockets and rocket boosters were used to propel a number of objects including military weapons and the space shuttle.
Adhesives, Sealants, and Roof and Non-	The automobile industry historically used asbestos in a wide variety of adhesive, sealant, and coating applications. The aerospace industry used asbestos in extremely specialized applications such as firewall

Roof Coatings	sealants and epoxy adhesives. Non-roof coatings were used to prevent corrosion (e.g. as vehicle undercoatings and underground pipe coatings). Roof coatings were used to repair and patch roofs, seal around projections such as chimneys and vent pipes, and bond horizontal and vertical surfaces.
Pipeline Wrap	Pipeline wrap was an asbestos felt product primarily used by the oil and gas industry for coating its pipelines. Asbestos pipeline wrap was also used in the coal tar enamel method of coating pipes, some above-ground applications (such as for special piping in cooling towers), and was also used by the chemical industry for underground hot water and steam piping.
Reinforced Plastics	Asbestos-reinforced plastics were used for electro-mechanical parts in the automotive and appliance industries and as high-performance plastics for the aerospace industry. Asbestos-reinforced plastic was typically a mixture of some type of plastic resin (usually phenolic or epoxy), a general filler (often chalk or limestone), and raw asbestos fiber.
Roofing Felt	Asbestos roofing felt was single or multi-layered grade and used for built-up roofing. Asbestos was used in roofing felts because of its dimensional stability and resistance to rot, fire, and heat.
Separators in Fuel	In very specialized aerospace applications, asbestos functioned as an insulator and separator between the negative and positive terminals of

Cells and Batteries	a fuel cell/battery.
Vinyl-Asbestos Floor Tile	Vinyl-asbestos floor tile was used in commercial, residential, and institutional buildings in heavy traffic areas such as supermarkets, department stores, commercial plants, kitchens, and "pivot points" – entry ways and areas around elevators
Any Other Building Materials (other than cement)*	Examples include insulation, plasters, mastics, textured paints (e.g., simulates stucco), and block filler paints (e.g., for coating masonry).
**Note: Not a product category described in the same terms in the Regulatory Impact Analysis; this broader product category is used generally to describe a number of specific product categories identified during the TSCA section 6 risk evaluation process.*	

As part of the current asbestos risk evaluation process, the Agency identified conditions of use to be considered under the TSCA risk evaluation. Those include: imported raw bulk chrysotile asbestos for the fabrication of diaphragms for use in chlorine and sodium hydroxide production and several imported chrysotile asbestos-containing materials including sheet gaskets for use in titanium dioxide chemical production, brake blocks for use in oil drilling, aftermarket automotive brakes/linings and other vehicle friction products, other gaskets and packing, cement products, and woven products. These ongoing uses identified by EPA are not among the significant new uses identified in this proposal and therefore would not require a significant new use notification submission to the Agency. EPA requests comment regarding any ongoing

uses not identified by the Agency and welcomes specific and verifiable documentation. EPA also requests comment on additional uses not identified as no longer ongoing.

In the absence of this proposed rule, the importing or processing of asbestos (including as part of an article) for the significant new uses proposed in this rule may begin at any time, without prior notice to EPA. Thus, EPA is concerned that commencement of the manufacturing (including importing) or processing for the significant new uses of asbestos identified in Table 2 could significantly increase the volume of manufacturing (including importing) and processing of asbestos as well as the magnitude and duration of exposure to humans over that which would otherwise exist currently. EPA has preliminarily concluded that action on this chemical substance is warranted and therefore proposes that any manufacturing (including importing) or processing of asbestos (including as part of an article), using the definition under Title II of TSCA, for any use identified in Table 2 would be a significant new use.

Consistent with EPA's past practice for issuing SNURs under TSCA section 5(a)(2), EPA's decision to propose a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use. If a person decides to begin manufacturing (including importing) or processing asbestos (including as part of an article) for a use identified in Table 2, the notice to EPA allows the Agency to evaluate the use according to the specific parameters and circumstances surrounding the conditions of use.

B. Rationale for Making Inapplicable the Exemption at 40 CFR 721.45(f) for Persons who Import or Process Asbestos

Chemical substances that are part of an article may still result in exposure if the chemical substance has certain physical-chemical properties – as in the case of asbestos, fibers can degrade with use and become friable over time where human exposures can occur leading to increased risks for disease (Ref. 3; Ref. 15; Ref. 16). During use and over time, non-friable asbestos has the potential to become friable (Ref. 3). For example, testing has shown that non-friable asbestos-containing material can become friable during use such as cutting, crumbling, and tearing, and as a result of such use, asbestos fibers can be released into the air (Ref. 15). Similarly, non-friable asbestos-containing building materials can release fibers if disturbed during building repair or demolition (Ref. 16). Therefore, EPA is proposing to make inapplicable the exemption at 40 CFR 721.45(f) for persons who import or process any asbestos as part of an article for the proposed significant new uses, which are identified in Table 2. A person who imports or processes asbestos (including as part of an article) for a proposed significant new use identified in Table 2 would be subject to the significant new use notification requirements in this proposed rule. No person would be able to begin importing or processing asbestos (including as part of an article) for a proposed significant new use without first submitting a SNUN to EPA and until the Agency has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination.

As requested in Unit XII., EPA asks for comment on the Agency's understanding of ongoing uses. When submitting a comment to the Agency, EPA requests specific and verifiable information that provides evidence of ongoing uses beyond those identified in this proposed rule.

C. Objectives

Based on the considerations in Unit III.A., EPA wants to achieve the following objectives with regard to the significant new use of asbestos (including as part of an article) as designated in this proposed rule:

1. EPA would receive notice of any person's intent to manufacture (including import) or process asbestos (including as part of an article) for the described significant new use before that activity begins.

2. EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing (including importing) or processing asbestos (including as part of an article) for the described significant new use.

3. EPA would be able to either determine that the significant new use is not likely to present an unreasonable risk, or take necessary regulatory action associated with any other determination before the described significant new use of asbestos (including as part of an article) occurs.

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:

1. The projected volume of manufacturing and processing of a chemical substance.

2. The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.

3. The extent to which a use increases the magnitude and duration of exposure of

human beings or the environment to a chemical substance.

4. 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.

Both federal and state environmental protection agencies and occupational safety and health organizations provide existing regulation pertaining to certain aspects of the manufacturing (including importing), processing, use, and/or disposal of asbestos in order to protect consumers, workers, and the environment. EPA believes the significant new uses of asbestos identified in Table 2 could increase the volume of manufacturing (including importing) and processing of asbestos, as well as the duration and magnitude of human and environmental exposure to the substance, reverse the declining trend of national import volumes of the substance, and reintroduce exposure scenarios that have become obsolete over the past several decades. It is imperative that EPA be notified of any intended significant new use of asbestos identified in Table 2 and be provided the opportunity to evaluate such proposed new use. Once a SNUR is finalized, failure to notify EPA and file a SNUN prior to manufacturing or processing for the significant new uses would constitute a violation of TSCA and would be subject to penalties, accordingly.

To determine what would constitute a significant new use of asbestos as discussed in this unit, EPA considered relevant information about the toxicity or expected toxicity of the substance, likely human exposures and environmental releases associated with possible uses, and the four factors listed in Section 5(a)(2) of TSCA. In addition to these

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

The article exemption at 40 CFR 721.45(f) is based on an assumption that people and the environment will generally not be exposed to chemical substances in articles (Ref. 18). However, even when contained in an article, asbestos can become friable over time with use (Ref. 3; Ref. 15; Ref. 16). Based on this understanding, upon submission of a SNUN, EPA intends to evaluate the potential risk of exposure to human health and the environment for any proposed significant new use of asbestos (including as part of an article). This understanding warrants making the exemption at 40 CFR 721.45(f) inapplicable to importers or processors of articles containing asbestos. Considering the potential friability of asbestos, even when incorporated in articles, and the health risks associated with exposure to asbestos, EPA proposes to affirmatively find under TSCA section 5(a)(5) that notification is justified by the reasonable potential for exposure to asbestos through the articles subject to this SNUR. EPA intends to evaluate such potential uses whether in the form of an article or not before those uses would begin for any associated risks or hazards that might exist. EPA has reason to anticipate that importing or processing asbestos as part of an article would create the potential for exposure to asbestos, and that EPA should have an opportunity to review the intended use before such use could occur. Persons subject to this proposed SNUR are required to notify EPA at least 90 days prior to commencing manufacturing (including importing) or processing of the substance for the new use. This required notification provides EPA with the opportunity to evaluate an intended significant new use of the regulated chemical substance and, if necessary, an opportunity to protect against potential unreasonable risks.

V. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, and exemptions to reporting requirements.

Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to SNURs must comply with the same notice requirements and EPA regulatory procedures as submitters of Premanufacture Notices (PMNs) under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacturing (including importing) or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's finding.

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

EPA designates June 1, 2018 (the date of web posting of this proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach is to ensure that a person cannot defeat a SNUR by initiating a significant new use before the effective date of the final rule. In developing this proposed rule, EPA has recognized that, given EPA's general practice of posting proposed and final SNURs on

its website a week or more in advance of **Federal Register** publication, this objective could be thwarted even before that publication.

Persons who begin commercial manufacturing (including importing) or processing of the chemical substance (to include importing or processing articles and components thereof containing the chemical substance) for a significant new use identified as of June 1, 2018 would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until all TSCA prerequisites for the commencement of manufacturing (including importing) or processing have been satisfied (see **Federal Register** documents of April 24, 1990 (55 FR 17376) (FRL-3658-5) and November 28, 2016 (81 FR 85472) (FRL-9945-53) for additional information).

VII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not usually require developing new information (e.g., generating test data) before submission of a SNUN; however, there is an exception: development of information is required where the chemical substance subject to the SNUR is also subject to a rule, order, or consent agreement under TSCA section 4 (see TSCA section 5(b)(1)). Also pursuant to TSCA section 4(h), which pertains to reduction of testing of vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies or NAMs), if available, to generate any recommended test data. EPA encourages dialogue with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

In the absence of a TSCA section 4 test rule covering the chemical substance,

persons are required to submit only information in their possession or control and to describe any other information known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 721.25, and 40 CFR 720.50). However, as a general matter, EPA recommends that SNUN submitters include information that would permit a reasoned evaluation of risks posed by the chemical substance during its manufacturing (including importing), processing, use, distribution in commerce, or disposal. EPA encourages persons to consult with the Agency before submitting a SNUN. As part of this optional pre-notice consultation, EPA would discuss specific information it believes may be useful in evaluating a significant new use.

Submitting a SNUN that does not itself include information sufficient to permit a reasoned evaluation may increase the likelihood that EPA will either respond with a determination that the information available to the Agency is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use or, alternatively, that in the absence of sufficient information, the manufacturing (including importing), processing, distribution in commerce, use, or disposal of the chemical substance may present an unreasonable risk of injury.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs and define the terms of any potentially necessary controls if the submitter provides detailed information on human exposure and environmental releases that may result from the significant new uses of the chemical substance.

VIII. SNUN Submissions

EPA recommends that submitters consult with the Agency prior to submitting a SNUN to discuss what information may be useful in evaluating a significant new use.

Discussions with the Agency prior to submission can afford ample time to conduct any tests that might be helpful in evaluating risks posed by the substance. According to 40 CFR 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 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 721.25 and 40 CFR 720.40. E-PMN software is available electronically at *http://www.epa.gov/opptintr/newchems*.

IX. Economic Analysis

A. SNUNs

EPA has evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers (including importers) and processors of the chemical substance included in this proposed rule (Ref. 8). In the event that a SNUN is submitted, average costs are estimated at approximately $9,937 per SNUN submission for large business submitters and $7,537 for small business submitters. These estimates include the cost to prepare and submit the SNUN, and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $2,500 user fee required by 40 CFR 700.45(b)(2)(iii), or, if they are a small business with annual sales of less than $40 million when combined with those of the parent company (if any), a reduced user fee of $100 (40 CFR 700.45(b)(1)). On February 26, 2018, EPA proposed raising the fee for SNUNs to $2,800 for small businesses and $16,000 for other businesses (83 FR 8212). Further, on November 30, 2017, EPA determined that revisions to the current small

business size standards for TSCA reporting and recordkeeping requirements are warranted (82 FR 56824). Businesses that submit a SNUN are also estimated to incur average costs of $67 for rule familiarization. First time submitters will incur an average cost of $128 for Central Data Exchange (CDX) registration and associated activities. Companies manufacturing, importing, or processing asbestos or articles containing asbestos will incur an average cost of $80 for notifying their customers of SNUR regulatory activities.

The costs of submitting a SNUN will not be incurred by any company unless a company decides to pursue a significant new use as defined in this proposed SNUR. Additionally, these estimates reflect the costs and fees as they are known at the time this rule is promulgated. EPA's complete economic analysis is available in the public docket for this proposed rule (Ref. 8).

B. Export Notification

Under Section 12(b) of TSCA and the implementing regulations at 40 CFR part 707, subpart D, exporters must notify EPA if they export or intend to export a chemical substance or mixture for which, among other things, a rule has been proposed or promulgated under TSCA section 5. As explained in Unit I., export notifications are required for asbestos, but not for articles containing asbestos. EPA is not proposing that asbestos-containing articles be subject to the export notification requirements; therefore, EPA assumes no additional costs under TSCA section 12(b) for this proposed rule.

In general, for persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the

number of required notifications (i.e., the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical covered in this proposed SNUR, as stated in the accompanying economic analysis of this proposed SNUR, the estimated cost of the export notification requirement on a per unit basis is approximately $96.

C. Import or Processing Chemical Substances as Part of an Article

In making inapplicable the exemption relating to persons that import or process certain chemical substances as part of an article, this action may affect firms that plan to import or process types of articles that may contain the asbestos. Some firms have an understanding of the contents of the articles they import or process. However, EPA acknowledges that importers and processors of articles may have varying levels of knowledge about the chemical content of the articles that they import or process. These parties may need to become familiar with the requirements of the rule. And, while not required by the SNUR, these parties may take additional steps to determine whether the subject chemical substance is part of the articles they are considering for importing or processing. This determination may involve activities such as gathering information from suppliers along the supply chain and/or testing samples of the article itself. Costs vary across the activities chosen and the extent of familiarity a firm has regarding the articles it imports or processes. Cost ranges are presented in the Understanding the Costs Associated with Eliminating Exemptions for Articles in SNURs (Ref. 19). Based on available information, EPA believes that article importers or processors that choose to investigate their products would incur costs at the lower end of the ranges presented in the Economic Analysis. For those companies choosing to undertake actions to assess the

composition of the articles they import or process, EPA expects that importers or processors would take actions that are commensurate with the company's perceived likelihood that a chemical substance might be a part of an article for the significant new uses subject to this proposed rulemaking (identified in Table 2) and the resources it has available. Example activities and their costs are provided in the accompanying Economic Analysis of this proposed rule (Ref. 8).

X. Alternatives

Before proposing this SNUR, EPA considered the following alternative regulatory action: Promulgate a TSCA section 8(a) Reporting Rule.

Under a TSCA section 8(a) rule, EPA could, among other things, generally require persons to report information to the Agency when they intend to manufacture (including import) or process a listed chemical for a specific use or any use. However, for asbestos, the use of TSCA section 8(a) rather than SNUR authority would have several limitations. First, if EPA were to require reporting under TSCA section 8(a) instead of TSCA section 5(a), that action would not ensure that EPA receives timely advance notice of future manufacturing (including importing) or processing of asbestos (including as part of an articles and components thereof) for new uses that may produce changes in human and environmental exposures. Nor would action under 8(a) ensure that an appropriate determination (relevant to the risks of such manufacturing (including importing) or processing) has been issued prior to the commencement of such manufacturing (including importing) or processing. Furthermore, a TSCA section 8(a) rule would not ensure that manufacturing (including importing) or processing for the significant new use cannot proceed until EPA has responded to the circumstances by taking the required actions

under Sections 5(e) or 5(f) of TSCA in the event that EPA determines any of the following: (1) that the significant new use presents an unreasonable risk under the conditions of use (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); (2) that the information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the significant new use; (3) that in the absence of sufficient information, the manufacture (including import), processing, distribution in commerce, use, or disposal of the substance, or any combination of such activities, may present an unreasonable risk (without consideration of costs or other non-risk factors, and including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by EPA); or (4) that there is substantial production and sufficient potential for environmental release or human exposure (as defined in TSCA section 5(a)(3)(B)(ii)(II)).

In addition, EPA may not receive important information from small businesses, because such firms generally are exempt from TSCA section 8(a) reporting requirements (see TSCA sections 8(a)(1)(A) and 8(a)(1)(B)). In view of the level of health concerns about asbestos if used for a proposed significant new use, EPA believes that a TSCA section 8(a) rule for this substance would not meet EPA's regulatory objectives.

XI. Scientific Standards, Evidence, and Available Information

EPA has used scientific information, technical procedures, measures, methods, protocols, methodologies, and models consistent with the best available science, as applicable. These sources supply information relevant to whether a particular use would be a significant new use, based on relevant factors including those listed under TSCA

section 5(a)(2). As noted in Unit III., EPA's decision to promulgate a SNUR for a particular chemical use need not be based on an extensive evaluation of the hazard, exposure, or potential risk associated with that use.

The clarity and completeness of the data, assumptions, methods, quality assurance, and analyses employed in EPA's decision are documented, as applicable and to the extent necessary for purposes of this proposed significant new use rule, in Unit II. and in the references cited throughout the preamble of this proposed rule. EPA recognizes, based on the available information, that there is variability and uncertainty in whether any particular significant new use would actually present an unreasonable risk. For precisely this reason, it is appropriate to secure a future notice and review process for these uses, at such time as they are known more definitively. The extent to which the various information, procedures, measures, methods, protocols, methodologies or models used in EPA's decision have been subject to independent verification or peer review is adequate to justify their use, collectively, in the record for a significant new use rule.

XII. Request for Comment

A. Do you have comments or information about ongoing uses?

EPA welcomes comment on all aspects of this proposed rule. EPA based its understanding of the use profile of this chemical on the published literature, the 2016 Chemical Data Reporting submissions, market research, review of Safety Data Sheets, and extensive research conducted during the early stages of the TSCA risk evaluation for asbestos. To confirm EPA's understanding, the Agency is requesting public comment on all aspects of this proposed rule. In providing comments on an ongoing use of asbestos, it

would be helpful to provide specific information and documentation sufficient for EPA to substantiate any assertions of use.

B. What Should I Consider as I Prepare my Comments for EPA?

1. *Submitting CBI.* It is EPA's policy to include all comments received in the public docket without change or further notice to the commenter and to make the comments available online at *www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM that you mail to EPA as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2, subpart B.

2. *Tips for preparing your comments*. When preparing and submitting your comments, see the commenting tips at *http://www2.epa.gov/dockets/commenting-epa-dockets#tips*.

XIII. References

The following is a listing of the documents that are specifically referenced in this document. The docket, EPA-HQ-OPPT-2018-0159, includes these documents and other information considered by EPA, including documents that are referenced within the

documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. National Toxicology Program. (NTP, 2016). Report on Carcinogens, Fourteenth Edition.; Research Triangle Park, NC: U.S. Department of Health and Human Services, Public Health Service. Retrieved from [HYPERLINK "https://ntp.niehs.nih.gov/ntp/roc/content/profiles/asbestos.pdf"].

2. U.S. Environmental Protection Agency. (EPA, 1988). IRIS summary for asbestos (CASRN 1332-21-4). Washington, DC: Integrated Risk Information System. Retrieved from *http://cfpub.epa.gov/ncea/iris/iris_documents/documents/subst/0371_summary.pdf* .

3. Agency for Toxic Substances and Disease Registry. (ATSDR, 2001). Toxicological profile for asbestos (update). Retrieved from [HYPERLINK "https://www.atsdr.cdc.gov/ToxProfiles/tp.asp?id=30&tid=4"].

4. International Agency for Research on Cancer. (IARC, 2012). A review of human carcinogens. Part C: Arsenic, metals, fibres, and dusts [IARC Monograph]. Lyon, France: World Health Organization. Retrieved from [HYPERLINK "http://monographs.iarc.fr/ENG/Monographs/vol100C/mono100C.pdf"].

5. International Agency for Research on Cancer. (IARC, 1977). IARC monographs on the evaluation of carcinogenic risk of chemicals to man: Asbestos. Lyon, France: World Health Organization. Retrieved from [HYPERLINK "http://monographs.iarc.fr/ENG/Monographs/vol1-42/mono14.pdf"].

6. International Agency for Research on Cancer. (IARC, 1987). Asbestos and certain asbestos compounds [IARC Monograph]. In IARC Monographs on the Evaluation of Carcinogenic Risks to Humans (pp. 106-116). Lyon, France. Retrieved from [HYPERLINK "http://monographs.iarc.fr/ENG/Monographs/suppl7/index.php"].

7. U.S. Environmental Protection Agency. (EPA, 2017). Scope of the Risk Evaluation for Asbestos. Retrieved from [HYPERLINK "https://www.regulations.gov/document?D=EPA-HQ-OPPT-2016-0736-0086"].

8. U.S. Environmental Protection Agency. (EPA, 2018). Economic Analysis for the Proposed Significant New Use Rule for Asbestos.

9. U.S. Geological Survey. (USGS, 2018). Mineral Commodity Summaries 2018. Washington, DC: U.S. Department of the Interior. Retrieved from [HYPERLINK "https://minerals.usgs.gov/minerals/pubs/mcs/2018/mcs2018.pdf"].

10. U.S. Geological Survey. (USGS, 2017). Mineral Commodity Summaries: Asbestos. Retrieved from [HYPERLINK "https://minerals.usgs.gov/minerals/pubs/commodity/asbestos/mcs-2017-asbes.pdf"].

11. U.S. Customs and Border Protection. (2017). *Automated Commercial Environment System (ACE).*

12. National Research Council. (NRC, 2006). Asbestos: Selected cancers. Institute of Medicine (US) Committee on Asbestos: Selected Health Effects. Washington, DC: The National Academies Press.

13. National Research Council. (NRC, 1983). Drinking Water and Health. Washington, DC: Safe Drinking Water Committee, Board on Toxicology and Environmental Health Hazards. Retrieved from [HYPERLINK

"http://dx.doi.org/10.17226/326"].

14. U.S. Environmental Protection Agency. (EPA, 1980). Ambient water quality criteria for asbestos [EPA Report]. (EPA/440/5-80/022). Washington, DC.

15. Anderson, P. H. and Farino, W. J. (1982). Analysis of Fiber Release from Certain Asbestos Products. Draft Final Report. Prepared by GCA Corporation for the U.S. Environmental Protection Agency. Retrieved from [HYPERLINK "https://nepis.epa.gov/Exe/ZyPDF.cgi/9101PBZ6.PDF?Dockey=9101PBZ6.PDF"].

16. 40 CFR Part 61, Subpart M, Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP).

17. Virta, R. (2011). Asbestos. Kirk-Othmer Encyclopedia of Chemical Technology. Retrieved from [HYPERLINK "http://onlinelibrary.wiley.com/doi/10.1002/0471238961.0119020510151209.a01.pub3/pdf"].

18. U.S. Environmental Protection Agency. (EPA, 1984). Significant New Uses of Chemical Substances; Certain Chemicals. 49 FR 35014, September 5, 1984 (FRL-2541-8).

19. U.S. Environmental Protection Agency. (EPA, 2013). Understanding the Costs Associated with Eliminating Exemptions for Articles in SNURs. May 1, 2013.

20. U.S. Environmental Protection Agency. (EPA, 1989). Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products: Final Report: Volume III. (5601989ICF001). Washington, DC: Office of Toxic Substances, U.S. Environmental Protection Agency.

XIV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at

[HYPERLINK "http://www2.epa.gov/laws-regulations/laws-and-executive-orders"].

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be a regulatory action subject to Executive Order 13771 (82 FR 9339, February 3, 2017), because this action is not a significant regulatory action under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq*. Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with existing chemical SNURs are already approved under OMB control number 2070-0038 (EPA ICR No. 1188); and the information collection activities associated with export notifications are already approved under OMB control number 2070-0030 (EPA ICR No. 0795). If an entity were to submit a SNUN to the Agency, the burden is estimated to be approximately 100 hours per response (slightly less for submitters who have already registered to use the electronic submission system).

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 the 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, as applicable.

D. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.*, I certify that promulgation of this SNUR would not have a significant economic impact on a substantial number of small entities. The rationale supporting this conclusion is as follows.

A SNUR applies to any person (including small or large entities) who intends to engage in any activity described in the rule as a "significant new use." By definition of the word "new" and based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. Since this proposed SNUR will require a person who intends to engage in such activity in the future to first notify EPA by submitting a SNUN, no economic impact will occur unless someone files a SNUN to pursue a significant new use in the future or forgoes profits by avoiding or delaying the significant new use. Although some small entities may decide to conduct such activities 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 chemical substances, the Agency receives only a handful of notices per year. During the six-year period from 2005-2010, only three submitters self-identified as small in their SNUN submissions (Ref. 8). EPA believes the cost of submitting a SNUN is relatively small compared to the cost of developing and marketing a chemical new to a firm or marketing a new use of the chemical and that the requirement to submit a SNUN generally does not have a significant economic impact.

Therefore, EPA believes that the potential economic impact of complying with this proposed SNUR is not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published as a final rule on August 8, 1997 (62 FR 42690) (FRL-5735-4), the Agency presented its general determination that proposed and final SNURs are not expected to have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

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 reason to believe that any State, local, or Tribal government would be impacted by this rulemaking. As such, the requirements of sections 202, 203, 204, or 205 of UMRA, 2 U.S.C. 1531-1538, do not apply to this action.

F. Executive Order 13132: Federalism

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have 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.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have any effect on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and

Indian tribes.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action does not address environmental health or safety risks, and EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order.

I. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have any effect on energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve any technical standards, and is therefore not subject to considerations under section 12(d) of NTTAA, 15 U.S.C. 272 note.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). This action does not affect the level of protection provided to human health or the environment.

List of Subjects in 40 CFR Part 721

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

Dated: _____

_____

Jeffery T. Morris,

Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR chapter I be 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. Add the following section:

§ 721.11095 Asbestos.

(a) *Chemical substance and significant new use subject to reporting*. (1) The chemical substance identified as asbestos (as defined by 15 U.S.C. 2642(3) as the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite or actinolite) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: manufacturing (including importing) or processing for any of the following uses:

i. Arc chutes;

ii. Beater-add gaskets;

iii. Extruded sealant tape and other tape;

iv. Filler for acetylene cylinders;

v. High grade electrical paper;

vi. Millboard;

vii. Missile liner;

viii. Adhesives, sealants, roof and non-roof coatings;

ix. Pipeline wrap;

x. Reinforced plastics;

xi. Roofing felt;

xii. Separators in fuel cells and batteries;

xiii. Vinyl-asbestos floor tile; or

xiv. Other building products (other than cement products).

(b) *Specific requirements*. (1) Section 721.45(f) does not apply to this section. A person who intends to manufacture (including import) or process the substance identified in paragraph (a)(1) for the significant new use identified in (a)(2) of this section as part of an article is subject to the notification provisions of § 721.25.

(2) [Reserved]