

(d) Quantities of the chemical substance, or of mixtures or articles containing the chemical substance, remaining after completion of research and development activities may be:

(1) Disposed of as a waste in accordance with applicable Federal, State, and local regulations, to the extent the disposal activity is not identified as a significant new use for the substance in subpart E of this part, or

(2) Used for a commercial purpose, to the extent the use is not identified as a significant new use of the substance in subpart E of this part.

(e)(1) Persons who manufacture, import, or process a chemical substance under this section must retain the following records:

(i) Copies of or citations to information reviewed and evaluated under paragraph (b)(1) of this section to determine the need to make any notification of risk.

(ii) Documentation of the nature and method of notification under paragraph (c)(1) of this section including copies of any labels or written notices used.

(iii) Documentation of prudent laboratory practices used instead of notification and evaluation under paragraph (b)(2) of this section.

(iv) The names and addresses of any persons other than the manufacturer, importer, or processor to whom the substance is distributed, the identity of the substance, the amount distributed, and copies of the notifications required under paragraph (c)(2) of this section.

(2) [Reserved]

[53 FR 28361, July 27, 1988, as amended at 58 FR 34204, June 23, 1993]

### Subpart B—Certain Significant New Uses

SOURCE: 54 FR 31308, July 27, 1989, unless otherwise noted.

#### § 721.50 Applicability.

This subpart B identifies certain significant new uses of chemical substances identified in subpart E of this part. The provisions of this subpart B apply only when referenced as applying to a chemical substance identified in subpart E of this part.

#### § 721.63 Protection in the workplace.

(a) Whenever a substance is identified in subpart E of this part as being subject to this section, a significant new use of the substance is any manner or method of manufacturing, importing, or processing associated with any use of the substance without establishing a program whereby:

(1) Each person who is reasonably likely to be dermally exposed in the work area to the chemical substance through direct handling of the substance or through contact with equipment on which the substance may exist, or because the substance becomes airborne in the form listed in paragraph (a)(6) of this section, and cited in subpart E of this part for the chemical substance, is provided with, and is required to wear, personal protective equipment that provides a barrier to prevent dermal exposure to the substance in the specific work area where it is selected for use. Each such item of personal protective equipment must be selected and used in accordance with 29 CFR 1910.132 and 1910.133.

(2) In addition to any other personal protective equipment selected in paragraph (a)(1) of this section, the following items are required:

(i) Gloves.

(ii) Full body chemical protective clothing.

(iii) Chemical goggles or equivalent eye protection.

(iv) Clothing which covers any other exposed areas of the arms, legs, and torso. Clothing provided under this paragraph need not be tested or evaluated under the requirements of paragraph (a)(3) of this section.

(3) The employer is able to demonstrate that each item of chemical protective clothing, including gloves, selected provides an impervious barrier to prevent dermal exposure during normal and expected duration and conditions of exposure within the work area by any one or a combination of the following:

(i) Testing the material used to make the chemical protective clothing and the construction of the clothing to establish that the protective clothing will be impervious for the expected duration and conditions of exposure. The

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testing must subject the chemical protective clothing to the expected conditions of exposure, including the likely combinations of chemical substances to which the clothing may be exposed in the work area.

(ii) Evaluating the specifications from the manufacturer or supplier of the chemical protective clothing, or of the material used in construction of the clothing, to establish that the chemical protective clothing will be impervious to the chemical substance alone and in likely combination with other chemical substances in the work area.

(4) Each person who is reasonably likely to be exposed to the chemical substance by inhalation in the work area in one or more of the forms listed in paragraph (a)(6) of this section and cited in subpart E of this part for the chemical substance, is provided with, and is required to wear, at a minimum, a NIOSH-approved respirator from one of the categories listed in paragraph (a)(5) of this section, and the respirator is used in accordance with 29 CFR 1910.134 and 30 CFR part 11.

(5) The following NIOSH approved respirators meet the minimum requirements for paragraph (a)(4) of this section:

(i) Category 19C Type C supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a full facepiece.

(ii) Category 19C Type C supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a tight-fitting facepiece.

(iii) Category 19C Type C supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet or tight-fitting facepiece.

(iv) Category 21C air-purifying respirator equipped with a full facepiece and high efficiency particulate filters.

(v) Category 21C powered air-purifying respirator equipped with a tight-fitting facepiece and high efficiency particulate filters.

(vi) Category 21C powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate filters.

(vii) Category 21C air-purifying respirator equipped with a high efficiency

particulate filter including disposable respirators.

(viii) Category 23C air-purifying respirator equipped with a full facepiece and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(ix) Category 23C powered air-purifying respirator equipped with a tight-fitting facepiece and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(x) Category 23C powered air-purifying respirator equipped with a loose-fitting hood or helmet and combination cartridges approved for paints, lacquers, and enamels. (Approval label may preclude use for some paints, lacquers, or enamels.)

(xi) Category 23C air-purifying respirator equipped with combination cartridges approved for paints, lacquers, and enamels, including disposable respirators. (Approval label may preclude use for some paints, lacquers, or enamels.)

(xii) Category 23C air-purifying respirator equipped with a full facepiece and organic gas/vapor cartridges.

(xiii) Category 23C powered air-purifying respirator equipped with a tight-fitting facepiece and organic gas/vapor cartridges.

(xiv) Category 23C powered air-purifying respirator equipped with a loose-fitting hood or helmet and organic gas/vapor cartridges.

(xv) Category 23C air-purifying respirator equipped with organic gas/vapor cartridges, including disposable respirators.

(6) When cited in subpart E of this part for a substance, the following airborne form(s) of the substance apply to paragraphs (a) (1) and (4) of this section:

- (i) Dust.
- (ii) Mist.
- (iii) Fume.
- (iv) Smoke.
- (v) Vapor.
- (vi) Gas.

(b) If a substance identified in subpart E of this part is present in the work area only as a mixture, an employer is exempt from the provisions of

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this section if the concentration of the substance in the mixture does not exceed a concentration set in subpart E of this part. The exemption does not apply if the employer has reason to believe that during intended use or processing in the work area, the substance in the mixture may be concentrated above the level set in subpart E of this part.

(c)(1) If at any time after commencing distribution in commerce of a chemical substance that is identified in subpart E of this part as subject to this section, the person has knowledge that a recipient of the substance is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section, the person is considered to have knowledge that the recipient is engaging in a significant new use and is required to follow the procedures in § 721.5(d) unless the person is able to document the following:

(i) That the person has notified the recipient in writing within 15 working days of the time the person first has knowledge that the recipient is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section, and that the person has knowledge of the failure of implementation.

(ii) That within 15 working days of notifying the recipient that the recipient is engaging in an activity that is not consistent with the implementation of a program specified in paragraph (a) of this section the person has received from the recipient, in writing, a statement of assurance that the recipient has established the program required under paragraph (a) of this section, and will take appropriate measures to avoid activities that are inconsistent with implementation of the program required under paragraph (a) of this section.

(2) If, after receiving a statement of assurance from a recipient under paragraph (c)(1)(ii) of this section, a manufacturer, importer, or processor has knowledge that the recipient is engaging in an activity that is not consistent with the implementation of the program specified in paragraph (a) of this section, that person is considered

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to have knowledge that the person is engaging in a significant new use and is required to follow the procedures in § 721.5(d).

### § 721.72 Hazard communication program.

Whenever a substance is identified in subpart E of this part as being subject to this section, a significant new use of that substance is any manner or method of manufacture, import, or processing associated with any use of that substance without establishing a hazard communication program as described in this section.

(a) *Written hazard communication program.* Each employer shall develop and implement a written hazard communication program for the substance in each workplace. The written program will, at a minimum, describe how the requirements of this section for labels, MSDSs, and other forms of warning material will be satisfied. The employer must make the written hazard communication program available, upon request, to all employees, contractor employees, and their designated representatives. The employer may rely on an existing hazard communication program, including an existing program established under the Occupational Health and Safety Administration (OSHA) Hazard Communication Standard (29 CFR 1900.1200), to comply with this paragraph provided that the existing hazard communication program satisfies the requirements of this paragraph. The written program shall include the following:

(1) A list of each substance identified in subpart E of this part as subject to this section known to be present in the work area. The list must be maintained in the work area and must use the identity provided on the appropriate MSDS for each substance required under paragraph (c) of this section. The list may be compiled for the workplace or for individual work areas.

(2) The methods the employer will use to inform employees of the hazards of non-routine tasks involving the substance, for example, the cleaning of reactor vessels, and the hazards associated with the substance contained in unlabeled pipes in their work area.