

Secondary lithium-ion batteries (small rechargeable consumer-type batteries)	Surface transportation	Air transportation	Mailpiece battery limit	International APO/FPO
Contained (properly installed) in equipment.	Mailable	Mailable	no more than 3 batteries ..	Mailable.

Note 3: Each secondary cell must not contain more than 1.5 g equivalent lithium content.

Note 4: Each secondary battery must not contain more than 8 g equivalent lithium content.

Note 5: For secondary batteries (lithium-ion) there is a limit of 3 batteries per mailpiece.

601.11 Other Restricted and Nonmailable Matter

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11.17 Battery-Powered Devices

[Revise the first sentence in 11.17 to read as follows:]

Cells or batteries properly installed in equipment must be protected from damage and short circuit and equipment or devices containing cells or batteries must include an effective means of preventing accidental activation. * * *

Neva R. Watson,

Attorney, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2005-0036; FRL-8110-5]

RIN 2070-AJ19

Mercury Switches in Motor Vehicles; Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating this significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for elemental mercury (CAS No. 7439-97-6) used in certain convenience light switches, anti-lock braking system (ABS) switches, and active ride control system switches. This action will amend 40 CFR part 721 and require persons who intend to manufacture (defined by statute to include import) or process elemental mercury for a use designated by this rule as a significant new use to notify

EPA at least 90 days before commencing the manufacturing or processing of the chemical substance for such significant new use. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs. In addition, in order to display the OMB control number for the information collection requirements contained in this final rule, EPA is amending the table of Office of Management and Budget (OMB) approval numbers for EPA regulations that appears in 40 CFR part 9.

DATES: This final rule is effective November 5, 2007.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2005-0036. All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be

provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Thomas Groeneveld, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-1188; e-mail address: groeneveld.thomas@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture or process elemental mercury for use in certain motor vehicle convenience light switches, ABS switches, and active ride control system switches. This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Persons who import any chemical substance subject to TSCA must comply with the TSCA section 13 (15 U.S.C. 2612) import certification requirements and corresponding regulations codified at 19 CFR 12.118 to 12.127 and 127.28. Such persons must certify that each shipment of the chemical substance complies with 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, TSCA section 12(b) (15 U.S.C. 2611(b)) export notification requirements are triggered by publication of a proposed SNUR. Therefore, any persons who export, intend to export, or have exported elemental mercury on or after August 10, 2006, are subject to the export notification provisions of TSCA section 12(b) (see 40 CFR 721.20). Such persons must comply with the export notification requirements in 40 CFR part 707, subpart D. Potentially affected

entities may include, but are not limited to:

- Manufacturers and processors of motor vehicle electrical switches (NAICS code 335931), e.g., manufacturers and processors of mercury switches in convenience lights, ABS acceleration sensors, and active ride control sensors.
- Manufacturers and processors of transportation equipment (NAICS code 336), e.g., manufacturers of motor vehicles and motor vehicle parts containing mercury switches.
- Motor vehicle repair and maintenance facilities (NAICS code 8111), e.g., motor vehicle mechanics who replace or install new elemental mercury switches as part of vehicle repair and maintenance.
- Motor vehicle part (used) wholesalers (NAICS code 4211), e.g., motor vehicle dismantlers who dismantle motor vehicles and sell used parts.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 721.5 for SNUR-related obligations. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What Action is the Agency Taking?

EPA proposed this SNUR for elemental mercury used in certain convenience light switches, ABS switches, and active ride control system switches on July 11, 2006 (71 FR 39035) (FRL-7733-9). EPA's responses to public comments received on the proposed rule are in Unit III.D. Please consult the July 11, 2006 **Federal Register** document for further background information for this final rule.

This SNUR will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of elemental mercury for the uses described in Unit III.B. and 40 CFR 721.10068(b)(2) of the regulatory text for this final rule (including use in certain convenience light switches, ABS

switches, and active ride control switches in motor vehicles, including when elemental mercury is imported or processed as part of an article). EPA defines "motor vehicle" for this SNUR by referencing the definition used in the emissions control regulations developed under the Clean Air Act (see 40 CFR 85.1703). As described in Unit III.A., EPA believes this action is necessary because manufacturing, processing, use, or disposal of elemental mercury in these switches may produce significant changes in human and environmental exposures to elemental mercury and methylmercury.

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). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) (15 U.S.C. 2604(a)(1)(B)), requires persons to submit a significant new use notification (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.25.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. However, 40 CFR 721.45(f) does not apply to this SNUR. As a result, persons subject to the provisions of this rule are not exempt from significant new use reporting if they import or process elemental mercury as part of an article (see 40 CFR 721.5). Conversely, the exemption from notification requirements for exported articles (see 40 CFR 707.60(b)), remains in force. Thus, persons who export elemental mercury as part of an article are not required to provide export notice.

Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR 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 may take regulatory action under TSCA sections 5(e), 5(f), 6, or 7 to control the activities for which the SNUN was submitted. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who export or intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations under TSCA section 12(b) appear at 40 CFR part 707, subpart D. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. Persons who import a chemical substance identified in a final SNUR are subject to the import certification requirements under TSCA section 13, which appear at 19 CFR 12.118 to 12.127 and 127.28. Such persons must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA, including any SNUR requirements.

III. Objectives and Rationale of the Final Rule

A. Overview

This rule applies to elemental mercury (CAS No. 7439-97-6), which is a naturally occurring element. Because of its unique properties (e.g., exists as a liquid at room temperature and forms amalgams with many metals), elemental mercury has been used in many industrial processes and consumer products. Mercury switches exploit the ability of small quantities of elemental mercury to conduct electricity and remain one of the largest categories of elemental mercury product uses. In addition to its useful characteristics, mercury also may cause adverse health effects in humans and wildlife. These effects can vary depending on the form of mercury to which a person is exposed, as well as the magnitude, length, and frequency of exposure.

The most prevalent human and wildlife exposure to mercury results from ingesting fish contaminated with methylmercury. Methylmercury is an organic compound that is formed via the conversion of elemental or inorganic mercury by certain microorganisms and other natural processes. For example, elemental mercury may evaporate and be emitted into the atmosphere. Atmospheric mercury can be deposited directly into water bodies or watersheds, where it can be washed into

surface waters via overland run-off. Once deposited in sediments, certain microorganisms and other natural processes can convert elemental mercury into methylmercury. Methylmercury bioaccumulates, which means that it is taken up and concentrated in the tissues of aquatic, mammalian, avian, and other wildlife. Methylmercury is a highly toxic substance; a number of adverse health effects associated with exposure to it have been identified in humans and in animal studies. Most extensive are the data on neurotoxicity, particularly in developing organisms. Fetuses, infants, and young children generally are more sensitive to methylmercury's neurological effects than adults.

By 2005, all fifty states had created fish-advisory programs. Through the end of 2004, forty-eight states, one territory, and two Indian tribes issued fish consumption advisories recommending that some people limit their consumption of fish from certain water bodies known to be contaminated by methylmercury. Also in 2004, EPA and the Food and Drug Administration (FDA) jointly issued a national advisory providing advice to women of childbearing age and young children on mercury in fish and shellfish. The advisory stated that some fish and shellfish contain higher levels of mercury that may harm a fetus or the developing nervous system of a young child. As of today, the information in the 2004 EPA/FDA advisory remains current.

Mercury switches were used for many years in motor vehicles in hood and trunk convenience lights, ABS, and active ride control systems. More than 200 million mercury switches were installed in motor vehicles from 1974 to 2000. In the United States, motor vehicles that reach the end of their useful life are often dismantled so that the useful parts can be reused and steel and other materials can be recycled. The steel industry recycles approximately 12 to 14 million end-of-life vehicles each year. During the recycling process, vehicles are dismantled, crushed, and shredded. Vehicle scrap is then separated into the ferrous, nonferrous, and motor vehicle shredder residue fractions. All of these fractions can be contaminated with elemental mercury, which can be released when switches are ruptured during processing. Steel fractions are sent to electric arc furnaces (EAFs) and other scrap consumers to be melted and refined for use in other steel products. The EAF process uses intense heat, which can vaporize and emit elemental mercury into the atmosphere. Motor vehicles are believed to be the

largest single source of elemental mercury in EAF emissions. The EPA air toxics program has identified EAFs as a priority sector.

In response to increased concerns about exposure to anthropogenic sources of elemental mercury and the availability of suitable mercury-free products, Federal and State governments have made efforts to limit the use of elemental mercury in certain products. American automakers voluntarily eliminated the use of mercury switches in motor vehicles as of January 1, 2003. Foreign motor vehicle manufacturers eliminated the use of mercury switches in the 1990s. Over the next 20 years, it is anticipated that most of the motor vehicles containing mercury switches will reach the end of their useful lives, will be recycled, and ultimately will pass through EAFs and other scrap consumer facilities. Many States and non-governmental organizations have taken actions to remove or to encourage the removal of mercury switches from motor vehicles before they are recycled. For these reasons, the potential for elemental mercury emissions to be released during scrap consumption is expected to decrease as fewer motor vehicles containing mercury switches remain to be dismantled or recycled.

While newly manufactured motor vehicles no longer contain mercury switches, certain switches are still available as aftermarket replacement parts. Mercury switches generally last the lifetime of the motor vehicle; however, switch replacement is required if a collision or another action damages the component containing the switch or the switch itself. Mercury switches are no longer used for replacement in hood and trunk convenience lights because mercury-free substitutes are readily available. However, no mercury-free alternative exists for mid-life replacement of ABS and active ride control system switches and a limited number of such switches remain available as replacement parts for pre-2003 motor vehicles. EPA believes that the demand for mercury switches as aftermarket replacement parts is currently low and likely will become negligible when most pre-2003 motor vehicles containing mercury switches in ABS and active ride control systems reach the end of their useful lives. EPA is excluding from this final SNUR mercury switches manufactured as aftermarket replacement parts for ABS and active ride control systems in vehicles manufactured before January 1, 2003.

For a more detailed summary of background information (e.g., chemistry,

environmental fate, exposure pathways, health and environmental effects, and use information), as well as references pertaining to elemental mercury that EPA considered before promulgating this final rule, please refer to the proposed rule as issued in **Federal Register** of July 11, 2006 (71 FR 39035) or the docket for this action under docket ID number EPA-HQ-OPPT-2005-0036. All documents in the docket are listed in the docket's index available at <http://www.regulations.gov>.

B. EPA Findings and Rationale

EPA is encouraged by the voluntary discontinuation of mercury-switch technologies in new vehicles as of January 1, 2003, and the anticipated reductions in mercury-switch production for mid-life replacement parts as pre-2003 vehicles containing mercury switches are no longer available and reach the end of their utility. However, EPA is concerned that the manufacturing or processing of elemental mercury for use in switches in new motor vehicles could be reinitiated in the future. Accordingly, EPA wants the opportunity to evaluate and control, where appropriate, activities associated with those uses, which contribute to atmospheric and environmental releases of elemental mercury. The required notification provided by a SNUN will provide EPA with the opportunity to evaluate activities associated with a significant new use and an opportunity to protect against unreasonable risks, if any, from exposure to mercury.

In determining what constituted significant new uses for elemental mercury motor vehicle switches, EPA considered relevant information on the toxicity of mercury and likely exposures associated with the uses, as discussed in Unit III.A., and the four factors listed in TSCA section 5(a)(2), as discussed in Unit IV.

After considering all relevant factors, EPA is designating as significant new uses the manufacture or processing of elemental mercury for:

- Use in convenience light switches in new motor vehicles.
- Use in convenience light switches as new aftermarket replacement parts for motor vehicles.
- Use in switches in ABS in new motor vehicles.
- Use in switches in ABS as new aftermarket replacement parts for motor vehicles that were manufactured after January 1, 2003.
- Use in switches in active ride control systems in new motor vehicles.
- Use in switches in active ride control systems as new aftermarket

replacement parts for motor vehicles that were manufactured after January 1, 2003.

EPA believes it is unlikely that companies would resume the use of mercury switches because mercury switches are no longer being used in new motor vehicles; effective mercury-free alternatives are increasingly available; use of elemental mercury in products is declining; and a growing number of states have banned the use of mercury switches in motor vehicles. In the event that mercury switch use as replacement parts in ABS and active ride control systems of pre-2003 motor vehicles does not decrease as described in this final rule, EPA may pursue additional regulatory action as appropriate under TSCA sections 4, 6, and 8. For a summary of alternative regulatory actions for elemental mercury that EPA considered before promulgating this final rule, please refer to the proposed rule as issued in **Federal Register** of July 11, 2006 (71 FR 39035).

C. Summary and Effects of the Final Rule

This final rule requires persons who intend to manufacture, import, or process elemental mercury for the significant new uses identified in this action to submit a SNUN at least 90 days before commencing such activity. The required notice will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that use before it occurs. This final rule will ensure that:

- EPA will receive a SNUN indicating a person's intent to manufacture, import, or process elemental mercury for a designated significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data and information submitted in a SNUN before the submitter begins manufacturing, importing, or processing elemental mercury for a designated significant new use.
- EPA will have an opportunity to regulate prospective manufacturers, importers, or processors of elemental mercury before the notified significant new use occurs, provided such regulation is warranted pursuant to TSCA sections 5(e) or 5(f).

For this SNUR, EPA is not including the general "article" exemption at 40 CFR 721.45(f). Thus, persons importing or processing elemental mercury, including when part of an article, for a significant new use would be subject to the notification requirements of 40 CFR 721.25. EPA is not including this exemption because mercury switches

are articles, and a primary concern associated with this SNUR is potential exposures associated with the lifecycle of elemental mercury in certain motor vehicle switches. Further, it is possible to reclaim elemental mercury from certain articles, which could be used to produce motor vehicle switches. Conversely, the exemption from notification requirements for exported articles (see 40 CFR 707.60(b), remains in force. Thus, persons who export elemental mercury as part of an article are not required to provide export notice.

D. Response to Public Comments

EPA received ten comments on the proposed rule that was issued in the **Federal Register** of July 11, 2006 (71 FR 39035). Copies of all comments received are available in the public docket for this action. Two comments that expressed general support for the proposed rule and another comment, which consisted of a static web-based image of an article about the health effects of elemental mercury and methylmercury, were not addressed. Comments that were similar in nature were consolidated into the following summaries. A discussion of the comments germane to the rulemaking and EPA responses follows:

1. *Comment—Proposed action insufficient.* One commenter felt that the use of elemental mercury (and all other toxic substances) in motor vehicle manufacturing should be banned. In the alternative, the commenter suggested that automakers should be required to implement mercury recovery policies to recover all mercury used in the motor vehicle manufacturing process.

Response. The actions requested by the commenter are outside the scope of this rulemaking. As mentioned in the proposed rule, EPA considered and rejected regulating elemental mercury under TSCA section 6(a). EPA concluded risk management action under TSCA section 6 is not necessary at this time because mercury switches are no longer being used in convenience lights, ABS, and active ride control systems installed in new motor vehicles; are no longer used in convenience light replacement parts; and are of very limited availability in ABS and active ride control replacement parts for some pre-2003 motor vehicles. This rule will allow EPA to address the potential risks associated with the described significant new uses of elemental mercury. Further, if the elimination of the use of mercury switches in ABS and active ride control replacement parts does not occur as anticipated, EPA may reconsider this

decision and pursue additional regulatory action.

2. *Comment—Applicability of action and reporting requirements for motor vehicles involved in collisions and junkyards.* One commenter inquired as to the specific make and model of motor vehicles affected by the proposed rule, the amount of elemental mercury present in a typical convenience light switches, ABS switches, or active ride control system switches, and the reporting requirements for motor vehicles involved in a collision whereby a switch is ruptured and releases elemental mercury. Further, the commenter inquired as to the applicability of the proposed rule to junkyards.

Response. EPA is not able to provide data on the specific make and model of motor vehicles that will be affected by this final rule. However, tables that describe "Automobiles with ABS or Ride Control Systems that Contain Mercury Switches," "Number of Mercury Capsules Installed between 1970 and 2003, by switch application," and "Vehicles with Mercury Switches Installed, 1985–2003 by switch application," can be accessed in the public docket for the final rule in the report titled, "Market Study: Mercury Use in Auto Switches."

U.S. automakers phased-out the use of mercury switches in new vehicles on January 1, 2003. Each switch contains between 0.7 to 1.5 grams of elemental mercury. This action does not require the reporting of elemental mercury spills from a vehicle collision. The rule requires persons to notify EPA at least 90 days before commencing the manufacturing or processing of elemental mercury for use in certain new motor vehicle switches, as described in Unit III.B. and 40 CFR 721.10068(b)(2) of the regulatory text for this rule. A junkyard might be affected if it were manufacturing or processing elemental mercury for convenience light switches, ABS switches, or active ride control system switches, or manufacturing or processing elemental mercury and distributing it in commerce to persons who could use it in such switches.

3. *Comment—Clarification of export notification requirements and implementation of de minimis standard.* Two commenters requested that the applicability of export requirements under TSCA section 12(b) be further clarified. The commenters voiced concerns that language in the preamble of the proposed rule requires export notification for elemental mercury exported in any form. The commenters were concerned that trace amounts of

elemental mercury (i.e., impurities), present in or on significant numbers of products in international commerce might trigger unduly burdensome export notification requirements. Instead, one of the commenters stated that export notification requirements should apply “only for elemental mercury when exported in the form subject to the SNUR, i.e., when used in convenience light switches, ABS switches, and active ride control switches in certain motor vehicles.” The commenters cited as precedent an EPA amendment of a rule issued under TSCA section 6 (59 FR 42769; August 19, 1994) (FRL-4867-3) (codified at 40 CFR 749.68), concerning hexavalent chromium used in comfort cooling towers. Both commenters also recommended that a *de minimis* standard should be adopted under TSCA section 12(b), whereby exports of chemical substances and mixtures in amounts less than the prescribed threshold would not be subject to notification requirements.

Response. EPA will not, at this time, revisit its interpretation of TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. Thus, one result of this SNUR is to trigger export notification requirements under TSCA section 12(b) for the export of elemental mercury regardless of its intended use. However, due to recent amendments to EPA’s TSCA section 12(b) implementing regulations (see 71 FR 66234; November 14, 2006) (FRL-8101-3) (see 71 FR 68750; November 28, 2006) (FRL-8104-9), exporters will not be required to report exports with *de minimis* levels of elemental mercury and will only be required to provide TSCA section 12(b) notification once for export to any given country.

The proposed rule indicated that the export notification requirements under TSCA section 12(b) would be applicable to the export of elemental mercury regardless of its intended use. Section 12(b)(2) of TSCA provides that, “If any person exports or intends to export to a foreign country a chemical substance or mixture for which . . . a rule has been proposed or promulgated under section 2604 [(TSCA section 5)] . . . , such person shall notify the Administrator of such exportation or intent to export and the Administrator shall furnish to the government of such country notice of such rule (15 U.S.C. 2611(b)(2)).” The TSCA section 12(b) export notification requirement for a chemical subject to a proposed or final SNUR is not contingent on whether the intended use of the chemical has been regulated under a SNUR, and EPA does not interpret TSCA section 12(b) to include an exemption for uses that are not

regulated. In promulgating the TSCA section 12(b) implementing regulations, EPA explained its position, “that the export notification requirement for a chemical is not contingent on whether the intended use of the chemical has been regulated. Notice must be given to EPA even though the chemical is being exported for a use, or in a manner, that is not regulated domestically under the relevant section 5, 6, or 7 action, rule or order (45 FR 82844, 82846; December 16, 1980).”

The commenters requested an exemption from the export notification requirements for the export of elemental mercury that would not be used for the significant new use. In support of the requested exemption, the commenters stated that EPA’s amendment of a rule issued under TSCA section 6, which concerned hexavalent chromium in comfort cooling towers (59 FR 42769; August 19, 1994) (codified at 40 CFR 749.68), provided a precedent for this type of exemption. In the August 1994 hexavalent chromium action noted by the commenters, EPA amended 40 CFR 749.68 to clarify that only hexavalent chromium chemicals that could be used for water treatment were the subjects of the underlying TSCA section 6 regulation, not other hexavalent chromium chemicals. That amendment had the parallel effect of limiting the scope of TSCA section 12(b) export notifications that were required for those hexavalent chromium chemicals that could be used to treat water. The chemical subject to this SNUR is elemental mercury, thus TSCA section 12(b) requirements are applicable to the export of elemental mercury. It should be noted, however, that in accordance with TSCA section 12(b) regulations at 40 CFR 707.60(b), export notification for elemental mercury exported as part of an article is not required. EPA will not narrow the language of the final rule to confine export notification requirements, as requested by the commenter, “only for elemental mercury when exported in the form subject to the SNUR, i.e., when used in convenience light switches, ABS switches, and active ride control switches in certain motor vehicles.”

4. *Comment—Weighted average of mercury switch content.* One commenter recommended that market data cited in the preamble of the proposed rule, which pertained to the average content of elemental mercury in switches used in convenience light, ABS, or active ride control systems, should be supplemented to reflect the weighted average of all switches used industry-wide for such purposes in motor

vehicles, which typically occur in one of three styles and weights.

Response. The discrepancy between the averages of 0.8 grams per switch in Unit IV.E. of the proposed rule and the weighted average of 1.2 grams per switch, as submitted, is noted. The submitted data suggests that the amount of elemental mercury collectively contained in convenience light, ABS, or active ride control system switches, as well as the amounts potentially released into the environment, might be greater than estimated. However, for the purposes of this action, the data does not affect EPA’s significant new use determinations as described herein.

5. *Comment—Lift article exemption in whole, maintain broad definition of “motor vehicle,” and incorporate condition for approval of new use.* One commenter advocated lifting the “article” exemption at 40 CFR 721.45(f) in whole, as a partial suspension (e.g., solely for articles containing motor vehicle switches) might be confusing or undermine the intent of the proposed rule. The commenter also concurred with the existing, broader definition of “motor vehicle,” and suggested the action apply to vehicles other than noncommercial motor vehicles that incorporate mercury switches for convenience light, ABS, or active ride control systems. Finally, the commenter suggested that EPA emphasize “mitigation requirements as a condition of approval for new use.” The commenter recommended that “new language [could] be included in the rule that would give States and EPA the ability to weigh the potential of cross-media impacts when considering significant new uses so that mitigation in other critical environmental areas can be included as a part of the decision making on significant new uses.” The commenter also urged EPA to consider “overall community reduction efforts as well as efforts by companies to manage overall environmental footprint” in its decision-making processes.

Response. EPA agrees that the exemption for articles at 40 CFR 721.45(f) should not apply to this action, and will finalize the rule as proposed, without the “article” exemption. EPA also agrees that the proposed definition of motor vehicles should be finalized as proposed. In regard to placing emphasis on “mitigation requirements as a condition of approval for new use,” EPA notes that the SNUR review process is not an approval process. Instead, EPA reviews notifications and can take action, as appropriate, under TSCA sections 5(e), 5(f), 6, or 7, to regulate the significant new use. If EPA takes no action during

the SNUN review period, then the SNUN submitter can commence the new use and EPA must issue a **Federal Register** document in accordance with TSCA section 5(g). As to considering cross-media impacts, specific mitigation requirements, and overall community reduction efforts in the “decision making on significant new uses,” EPA generally does consider cross-media impacts in the SNUN evaluation process and could request further information from a SNUN submitter as needed to facilitate assessment and, where appropriate, regulate significant new uses. Further, EPA routinely considers environmental and human exposures, hazards, risks, and data needs, and, where appropriate, follows up as required with SNUN submitters, to regulate or limit activities pending the development of information necessary to evaluate a significant new use through the issuance of TSCA section 5(e) orders.

6. *Comment—Potential expansion of elemental mercury emission reduction under other statutes.* One commenter suggested the development of an aggressive National Emission Standards for Hazardous Air Pollutants (NESHAPs) that focused on electric arc furnace facilities.

Response. The actions requested by the commenter are outside the scope of this rulemaking.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA provides 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:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance (15 U.S.C. 2604(2)(A)–(D)).

TSCA provides for the consideration of all relevant factors in making a significant new use determination, and here EPA considered other factors in addition to those enumerated in TSCA section 5(a)(2). To determine what would constitute a significant new use of elemental mercury, EPA considered relevant information about the toxicity of mercury, the likely exposures and

releases associated with the lifecycle of elemental mercury manufactured for use in motor vehicle switches, and the four factors listed in TSCA section 5(a)(2). The lifecycle steps include the following:

- Mercury switch manufacturing.
- Motor vehicle manufacturing.
- Motor vehicle collision, repair, and maintenance.
- End-of-life vehicle recycling.

After consideration of the relevant information about elemental mercury and the lifecycle steps of automobile manufacture, the statutory factors, and other considerations articulated in the proposed rule (71 FR 39041–39042; July 11, 2006), EPA finds that the use of elemental mercury in convenience light, ABS, and active ride control system switches for use in new motor vehicles to be a significant new use. EPA also finds the use of elemental mercury in certain switches as aftermarket replacement parts to be a significant new use: All aftermarket convenience light switches and those aftermarket ABS and active ride control system switches for motor vehicles manufactured after January 1, 2003.

These findings are based on the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of elemental mercury in such switches, reintroduction of elemental mercury in convenience light, ABS, and active ride control system switches for use in new motor vehicles would: (1) Increase the volume of manufacturing, processing, and recycling of such switches; (2) increase the magnitude and duration of exposure of human beings and the environment to elemental mercury; and (3) result in the exposure of a category of workers to a different type or form of elemental mercury. Based on these considerations, EPA determined that any manufacturing or processing of elemental mercury for the uses designated in this rule is a significant new use.

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

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. If uses begun after publication of the proposed rule were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notice requirements, because a person could defeat the SNUR

by initiating the proposed significant new use before the rule became final, and then argue that the use was ongoing as of the effective date of the final rule. Thus, persons who began or begin commercial manufacture, import, or processing of elemental mercury for a significant new use designated in this rule will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under 40 CFR 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

VI. SNUN Submissions

SNUNs should be mailed to the Environmental Protection Agency, OPPT Document Control Office (7407M), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Information must be submitted in the form and manner set forth in EPA Form No. 7710–25. This form is available electronically on the EPA website at <http://www.epa.gov/oppt/newchemicals/pubs/pmnforms.htm>, and in hard copy from the Environmental Assistance Division (7408M), OPPT, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (see 40 CFR 721.25(a) and 720.40(a)(2)(i)).

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data or information before submission of a SNUN. Persons are required only to submit test data and information in their possession or control and to describe any other data known to or reasonably ascertainable by them (15 U.S.C. 2604(d); 40 CFR 721.25).

In view of the potential risks posed by manufacture, processing, distribution, and disposal of elemental mercury for use in motor vehicle switches, EPA recommends that potential SNUN submitters include data that would permit a reasoned evaluation of risks posed by elemental mercury. EPA encourages persons to consult with EPA staff before submitting a SNUN. As part of this optional pre-notice consultation, EPA will discuss specific data it believes may be useful in evaluating a significant new use. SNUNs submitted for a significant new use of elemental

mercury without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) to prohibit or limit activities associated with the significant new use intended.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs that provide detailed information on:

- Human exposure and environmental releases that may result from the significant new uses of elemental mercury.
- Potential benefits of the significant new use of the elemental mercury.
- Information on risks posed by the use of elemental mercury in motor vehicle switches relative to risks posed by mercury-free substitutes.
- Information on how the concerns about elemental mercury emissions during disposal of end-of-life vehicles could be mitigated (e.g., rebates for switches removed before shredding).

Submitters should consider including with a SNUN any other available studies on elemental mercury or studies on analogous substances which may demonstrate that the significant new uses being reported are unlikely to present an unreasonable risk.

VIII. Economic Analysis

A. SNUNs

EPA evaluated the potential costs of establishing SNUR reporting requirements for potential manufacturers and processors of elemental mercury. While there is no precise way to calculate the total annual cost of compliance with this final rule, given the uncertainties related to predicting the number of SNUNs that would be submitted as a result of this SNUR, EPA estimates that the cost for preparing and submitting a SNUN is \$7,302, including a \$2,500 user fee required by 40 CFR 700.45(b)(2)(iii). Small businesses with annual sales of less than \$40 million when combined with those of the parent company, if any, are subject to a reduced user fee of \$100 (40 CFR 700.45(b)(1)). Based on past experience with SNURs and the low number of SNUNs which are submitted on an annual basis, EPA believes that there will be few, if any, SNUNs submitted as a result of this SNUR. EPA does not expect manufacturers of motor vehicles or mercury-containing replacement switches to choose to manufacture or process items that would require the submission of a SNUN. EPA believes that certain state laws that ban the use of mercury-containing switches in new motor vehicles, as well as marginal cost differences between mercury-containing

and mercury-free switches, will make SNUN submission cost prohibitive. The costs of submitting SNUNs will not be incurred by any company unless that company decides to pursue a significant new use as defined in this SNUR. Further, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovations, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value. The complete economic analysis performed by EPA is available in the public docket, as referenced in the proposed rule.

B. Export Notification

As noted in Unit I. and Unit II.C., persons who intend to export a chemical substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)). EPA estimated that the one-time cost of preparing and submitting an export notification was \$93.02. The total costs of export notification will vary, depending on the number of required notifications (e.g., number of countries to which the chemical is exported). EPA is not able to estimate the total number of TSCA section 12(b) notifications that will be received as a result of this SNUR, nor the total number of companies that will file such notices. However, EPA expects that the total cost of complying with the export notification provisions of TSCA section 12(b) will be limited, based on past experience.

IX. Statutory and Executive Order Reviews

A. Regulatory Planning and Review

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget has determined that this final SNUR is not a "significant regulatory action" subject to review by OMB, because it does not meet the criteria in section 3(f) of the Executive Order.

B. Paperwork Reduction Act

The Office of Management and Budget has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., and has assigned OMB control number 2070-0038 (EPA ICR No. 1188). This action would not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to EPA, the annual burden is estimated to require an average of 105

hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN. In addition to the time and effort to prepare and submit a SNUN, manufacturers must maintain records associated with the SNUN submission for five years. The recordkeeping associated with preparing and filing a SNUN is assumed to require five percent of the time spent on reporting, or 5 hours. This brings the total estimated time burden associated with a SNUN to 110 hours.

According to PRA, burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number and included on the related collection instrument or form, if applicable. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. In addition, EPA is amending the table in 40 CFR part 9 of currently approved OMB control numbers for various regulations to list the regulatory citation for the information requirements contained in this final rule. Due to the technical nature of the table, EPA finds that further notice and comment about amending the table is unnecessary. As a result, EPA finds that there is good cause under section 553(b)(3)(B) of the Administrative Procedures Act (APA), 5 U.S.C. 553(b)(3)(B), to amend the table in 40 CFR 9.1 without further notice and comment.

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., EPA hereby certifies that promulgation of this SNUR will not have a significant adverse 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 activity. Since a SNUR only requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN, no economic impact would even occur until someone decides to engage in those activities. Although some small entities may decide to conduct such activities in the future, EPA cannot presently determine how many instances, if any, there may be. However, EPA records indicate that an average of only 10 notices per year are received in response to the promulgation of more than 1,000 SNURs. Of those SNUNs submitted, none appear to be from small entities in response to any SNUR. In addition, the estimated reporting cost for the submission of a SNUN (see Unit VIII.A.), is minimal, regardless of the size of the applicant organization.

Therefore, EPA believes that the potential economic impact of complying with this SNUR is not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published on June 2, 1997 (62 FR 29684) (FRL-5597-1), EPA 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, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act

Based on EPA experience with proposing and finalizing SNURs, State, Local, and Tribal governments have not been impacted by these rulemakings. EPA does not have any reason to believe that any State, Local, or Tribal government will be impacted by this rulemaking. As such, EPA determined that this regulatory action will not impose any enforceable duty, contain any unfunded mandate, or otherwise have any affect on small governments subject to the requirements of sections 202, 203, 204, or 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

E. Federalism

This action will not have a 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999).

F. Consultation and Coordination with Indian Tribal Governments

This final rule will not have Tribal implications because it will not have substantial direct effects on Indian Tribes, uniquely affect the communities of Indian Tribal governments, and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), do not apply to this final rule.

G. Protection of Children from Environmental Health Risks and Safety Risks

This final rule is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer and Advancement Act

This action does not involve any technical standards; therefore, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113 (15 U.S.C. 272 note), does not apply to this action.

J. Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and*

Low-Income Populations (59 FR 7629, February 16, 1994).

X. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. 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 rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

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

Dated: September 27, 2007.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

■ Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136-136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601-2671; 21 U.S.C. 331j, 346a, 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971-1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901-6992k, 7401-7671q, 7542, 9601-9657, 11023, 11048.

■ 2. In § 9.1 the table is amended by adding a new entry in numerical order under the heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR citation	OMB control No.
* * * * *	* *

40 CFR citation	OMB control No.
Significant New Uses of Chemical Substances	
* * *	* *
721.10068	2070-0038
* * *	* *
* * *	* *

provisions of § 721.45(f) do not apply to this section. A person who imports or processes elemental mercury as part of an article is not exempt from submitting a significant new use notice.

(2) [Reserved]

[FR Doc. E7-19705 Filed 10-4-07; 8:45 am]

BILLING CODE 6560-50-S

Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2007-0511. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

PART 721—[AMENDED]

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

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

■ 4. By adding new § 721.10068 to subpart E to read as follows:

§ 721.10068 Elemental mercury.

(a) **Definitions.** The definitions in § 721.3 apply to this section. In addition, the following definition applies: *Motor vehicle* has the meaning found at 40 CFR 85.1703.

(b) **Chemical substances and significant new uses subject to reporting.**

(1) The chemical substance elemental mercury (CAS. No. 7439-97-6) is subject to reporting under this section for the significant new uses described in paragraph (b)(2) of this section.

(2) The significant new uses are:

(i) Manufacture or processing of elemental mercury for use in convenience light switches in new motor vehicles.

(ii) Manufacture or processing of elemental mercury for use in convenience light switches as new aftermarket replacement parts for motor vehicles.

(iii) Manufacture or processing of elemental mercury for use in switches in anti-lock brake systems (ABS) in new motor vehicles.

(iv) Manufacture or processing of elemental mercury for use in switches in ABS as new aftermarket replacement parts for motor vehicles that were manufactured after January 1, 2003.

(v) Manufacture or processing of elemental mercury for use in switches in active ride control systems in new motor vehicles.

(vi) Manufacture or processing of elemental mercury for use in switches in active ride control systems as new aftermarket replacement parts for motor vehicles that were manufactured after January 1, 2003.

(c) **Specific requirements.** The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) **Suspension or revocation of certain notification exemptions.** The

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2007-0511; FRL-8476-9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Carbon Monoxide Maintenance Plan Update; Limited Maintenance Plan in Philadelphia County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Pennsylvania State Implementation Plan (SIP) that was submitted on March 19, 2007 by the Pennsylvania Department of the Environment. This revision is a conversion of the currently approved full maintenance plan for carbon monoxide for the years 2007-2017, to a maintenance plan that will utilize a limited maintenance plan option for the same period. This will allow Federal actions requiring conformity determinations to be considered as automatically satisfying the budget test for carbon monoxide. EPA is approving these revisions to the Philadelphia County carbon monoxide maintenance plan in accordance with the requirements of the Clean Air Act (the Act). This action is being taken under section 110 of the Act.

DATES: This rule is effective on December 4, 2007 without further notice, unless EPA receives adverse written comment by November 5, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2007-0511 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* powers.marilyn@epa.gov.

C. *Mail:* EPA-R03-OAR-2007-0511, Marilyn Powers, Acting Chief, Air