

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.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, EPA seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by EPA on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation Web site for additional information on this process (<http://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions>). EPA received the following applications to register new uses for pesticide products containing currently registered active ingredients:

1. *EPA Registration Number:* 279-3055. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* FMC Corporation, Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103. *Active Ingredient:* Bifenthrin. *Product Type:* Insecticide. *Proposed Use:* Avocado; Low Growing Berry Subgroup 13-07G; Peach Subgroup 12-12B; Pepper/Eggplant Subgroup 8-10B; Pome Fruit Group 11-10 (except Mayhaw); Pomegranate; Small Fruit

Vine Climbing Subgroup 13-07F (except Fuzzy Kiwifruit); and Tomato Subgroup 8-10A. *Contact:* RD.

2. *EPA Registration Number:* 279-3108. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* FMC Corporation, Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103. *Active Ingredient:* Bifenthrin. *Product Type:* Insecticide. *Proposed Use:* Caneberries (Subgroup 13-07A); Cranberry; Fruit, Citrus Group 10-10; Low Growing Berries (Subgroup 13-07G) except Cranberry; Nut, Tree Group 14-12; Peach Subgroup 12-12B; Pepper/Eggplant (Subgroup 8-10B); Pome Fruit Group 11-10 (except Mayhaw); Pomegranate; Small Fruit Vine Climbing except Fuzzy Kiwifruit (Subgroup 13-07F); and Tomato (Subgroup 8-10A). *Contact:* RD.

3. *EPA Registration Number:* 279-3313. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* FMC Corporation, Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103. *Active Ingredient:* Bifenthrin. *Product Type:* Insecticide. *Proposed Use:* Brassica, Leafy Greens Subgroup 4-16B; Caneberries (Subgroup 13-07A); Fruit, Citrus Group 10-10; Nut, Tree Group 14-12; Peach Subgroup 12-12B; Pepper/Eggplant (Subgroup 8-10B); Pome Fruit Group 11-10 (except Mayhaw); Pomegranate; Small Fruit Vine Climbing except Fuzzy Kiwifruit (Subgroup 13-07F); and Tomato (Subgroup 8-10A). *Contact:* RD.

4. *EPA Registration Numbers:* 279-3315 and 279-3329. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* FMC Corporation, Agricultural Products Group, 1735 Market St., Philadelphia, PA 19103. *Active Ingredient:* Bifenthrin, zeta-Cypermethrin. *Product Type:* Insecticide. *Proposed Use:* Avocado. *Contact:* RD.

5. *EPA Registration Number:* 11678-66. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* ADAMA Makhteshim, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604. *Active Ingredient:* Bifenthrin. *Product Type:* Insecticide. *Proposed Use:* Cranberry. *Contact:* RD.

6. *EPA File Symbol:* 46597-U. *Docket ID Number:* EPA-HQ-OPP-2016-0605. *Applicant:* Chemstar Corp., 120 Interstate West Parkway, Suite 100, Lithia Springs, GA 30122. *Active Ingredient:* Hypochlorous Acid. *Product Type:* Antimicrobial. *Proposed Use:* End-use product for antimicrobial fruit and vegetable wash. *Contact:* AD.

7. *EPA Registration Numbers:* 66222-99, 66222-236, and 66222-261. *Docket ID Number:* EPA-HQ-OPP-2016-0352. *Applicant:* Makhteshim Agan of North America, Inc. (d/b/a ADAMA), 3120

Highwoods Blvd., Suite 100, Raleigh, NC 27604. *Active Ingredient:* Bifenthrin. *Product Type:* Insecticide. *Proposed Use:* Cranberry. *Contact:* RD.

8. *EPA Registration Number:* 73049-45. *Docket ID Number:* EPA-HQ-OPP-2016-0659. *Applicant:* Valent BioSciences Corporation, 870 Technology Way, Libertyville, IL 60048. *Active Ingredient:* Aminoethoxyvinylglycine Hydrochloride (AVG). *Product Type:* Plant Growth Regulator (PGR). *Proposed Use:* Blueberries at flowering. *Contact:* BPPD.

9. *EPA Registration Number:* 73049-58. *Docket ID Number:* EPA-HQ-OPP-2016-0659. *Applicant:* Valent BioSciences Corporation, 870 Technology Way, Libertyville, IL 60048. *Active Ingredient:* Aminoethoxyvinylglycine Hydrochloride (AVG). *Product Type:* Plant Growth Regulator (PGR). *Proposed Use:* Muskmelon seed production and olive trees at flowering. *Contact:* BPPD.

10. *EPA Registration Numbers:* 80289-1, 80289-7, 80289-8, 80289-18, 80289-20, and 80289-21. *Docket ID Number:* EPA-HQ-OPP-2016-0573. *Applicant:* Isagro S.p.A. d/b/a Isagro USA, Inc., 430 Davis Dr., Suite 240, Morrisville, NC 27560. *Active Ingredient:* Tetraconazole. *Product Type:* Fungicide. *Proposed Use:* Dried Shelled Pea and Bean (except Soybean) (Crop Subgroup 6C), Barley, Rapeseed (Crop Subgroup 20A), and Wheat. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 2, 2016.

Rob McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2016-30178 Filed 12-14-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2016-0597; FRL-9954-68]

Chemical Data Reporting; Requirements for Inorganic Byproduct Chemical Substances; Notice of Intent To Negotiate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Establish Negotiated Rulemaking Committee and Negotiate a Proposed Rule.

SUMMARY: EPA is giving notice that it intends to establish a Negotiated Rulemaking Committee under the Federal Advisory Committee Act

(FACA) and the Negotiated Rulemaking Act (NRA). The objective of the Negotiated Rulemaking Committee will be to negotiate a proposed rule that would limit chemical data reporting requirements under section 8(a) of the Toxic Substances Control Act (TSCA), as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act, for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. The purpose of the Negotiated Rulemaking Committee will be to conduct discussions in a good faith attempt to reach consensus on proposed regulatory language. This negotiation process is required by section 8(a)(6) of TSCA. The Negotiated Rulemaking Committee will consist of representatives of parties with a definable stake in the outcome of the proposed requirements.

DATES: Comments must be received on or before January 17, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2016-0597, 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. NW., 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: Susan Sharkey, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-8789; email address: Sharkey.susan@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 manufacture as a byproduct chemical substance) or import chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes are not intended to be exhaustive, but rather provides a guide to help readers determine whether this action may apply to them:

- Chemical manufacturers and importers (NAICS codes 325 and 324110; e.g., chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344; e.g., utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

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**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through <http://www.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 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.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Background

A. What action is the Agency taking?

As required by the Negotiated Rulemaking Act of 1996 (NRA), EPA is giving notice that the Agency intends to establish a Negotiated Rulemaking

Committee. The objective of this Negotiated Rulemaking Committee will be to develop a proposed rule providing for limiting chemical data reporting requirements, under TSCA section 8(a), for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed. This negotiation process, which includes the establishment of a federal advisory committee, is required by section 8(a)(6) of the Toxic Substances Control Act (TSCA), as amended by the Frank. R. Lautenberg Chemical Safety for the 21st Century Act ("Lautenberg Act").

B. What is the Agency's authority for this action?

This notice announcing EPA's intent to establish a Negotiated Rulemaking Committee to negotiate a proposed regulation was developed under the authority of sections 563 and 564 of the Negotiated Rulemaking Act (NRA) (5 U.S.C. 561, Pub. L. 104-320). This Negotiated Rulemaking Committee will be a statutory committee under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, section 9(a)(1)). Any proposed regulation resulting from the negotiation process would be developed under the authority of TSCA section 8 (15 U.S.C. 2607), as amended by the Lautenberg Act (Pub. L. 114-182).

III. Negotiated Rulemaking

A. Why is the Agency pursuing a negotiated rulemaking?

In the Lautenberg Act, Congress mandated that EPA undertake a negotiation process, pursuant to the NRA, aimed at developing a rule to limit TSCA section 8(a) chemical data reporting requirements for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed.

EPA sees potential benefits from undertaking this negotiated rulemaking process. A regulatory negotiation process will allow EPA to engage directly with informed, interested, and affected parties, all of whom are working together to resolve their differences. Because a negotiating committee includes representatives from the major stakeholder groups affected by or interested in the rule, the number of public comments on any proposed rule may be reduced and those comments that are received may be more moderate. EPA anticipates that few substantive changes would be

needed to any proposed rule resulting from the negotiated rulemaking process. Finally, EPA recognizes an observation of the Administrative Conference of the United States: "Experience indicates that if the parties in interest were to work together to negotiate the text of a proposed rule, they might be able in some circumstances to identify the major issues, gauge their importance to the respective parties, identify the information and data necessary to resolve the issues, and develop a rule that is acceptable to the respective interests, all within the contours of the substantive statute." ACUS Recommendation 82–4.

B. What is the concept of negotiated rulemaking?

Negotiated rulemaking is a process in which a proposed rule is developed by a committee composed of representatives of all those interests that will be significantly affected by the rule. Decisions are made by consensus, which the NRA defines as the unanimous concurrence among interests represented on a Negotiated Rulemaking Committee, unless the Negotiated Rulemaking Committee itself unanimously agrees to use a different definition. To start the process, the Agency identifies all interests potentially affected by the rulemaking under consideration. To help in this identification process, the Agency publishes a notice in the **Federal Register**, such as this one, which identifies a preliminary list of interests and requests public comment on that list. Following receipt of the comments, the Agency establishes a committee representing these various interests to negotiate a consensus on the terms of a proposed rule. Representation on the Negotiated Rulemaking Committee may be direct, that is, each member represents a specific interest, or may be indirect, through coalitions of parties formed for this purpose. The Agency is a member of the Negotiated Rulemaking Committee representing the Federal government's own set of interests. The Negotiated Rulemaking Committee is facilitated by a trained mediator, who facilitates the negotiation process. The role of this mediator, or facilitator, is to apply proven consensus building techniques to the advisory committee setting.

If a regulatory negotiation advisory committee reaches consensus on the provisions of a proposed rule, the Agency, consistent with its legal obligations, would use such consensus as the basis of a proposed rule, to be published in the **Federal Register**. This provides the required public notice and

allows for a public comment period. All participants and interested parties would retain their rights to comment and to seek judicial review. EPA anticipates, however, that any preproposal consensus agreed upon by this Negotiated Rulemaking Committee would effectively address all major issues prior to publication of a proposed rulemaking.

C. What is the Agency commitment?

In initiating this regulatory negotiation process, EPA is making a commitment to provide adequate resources to ensure timely and successful completion of the process. This commitment includes making the process a priority activity for all representatives, components, officials, and personnel of the Agency who need to be involved in the rulemaking, from the time of initiation until such time as a final rule is issued or the process is expressly terminated. EPA will provide administrative support for the process and will take steps to ensure that the Negotiated Rulemaking Committee has the dedicated resources it requires to complete its work in a timely fashion. These include the provision or procurement of such support services as: Properly equipped space adequate for public meetings and caucuses; logistical support; distribution of background information; the service of a facilitator; and such additional research and other technical assistance as may be necessary. If there is consensus within the Negotiated Rulemaking Committee, EPA will use the consensus to the maximum extent possible, consistent with the legal obligations of the Agency, as the basis for a rule proposed by the Agency for public notice and comment. The Agency is committed to working in good faith to seek consensus on a proposal that is consistent with the legal mandate of TSCA.

D. What is the negotiating consensus?

A key principle of negotiated rulemaking is that agreement is by consensus of all the interests. Thus, no one interest or group of interests is able to control the process. Again, the NRA defines consensus as the unanimous concurrence among interests represented on a Negotiated Rulemaking Committee, unless the Negotiated Rulemaking Committee itself unanimously agrees to use a different definition. In addition, experience has demonstrated that using a trained mediator to facilitate this process will assist all potential parties, including EPA, to identify their interests in the rule and so to be able to reevaluate

previously stated positions on issues involved in this rulemaking effort.

IV. Chemical Data Reporting for Inorganic Byproduct Chemical Substances

A. Chemical Data Reporting (CDR) Framework

Under TSCA, EPA regulates the manufacture, processing, distribution, use, and disposal of chemical substances in the United States. The TSCA Inventory of Chemical Substances (TSCA Inventory) lists the chemical substances which are manufactured or processed in the United States (also called "existing chemical substances"). Chemical substances not on the TSCA Inventory are known as "new chemical substances" and are required to be reviewed through EPA's new chemical program (under TSCA section 5) prior to the commencement of manufacture or processing. There are over 85,000 chemical substances listed on the TSCA Inventory.

In 1986, EPA created the Inventory Update Reporting (IUR) regulation under TSCA section 8 to collect, every four years, limited information on the manufacture (which includes import) of organic chemical substances listed on the TSCA Inventory, thereby providing more up-to-date production volume information on the chemical substances in U.S. commerce. In 2005, EPA amended the IUR to require the reporting of information on inorganic chemical substances and to collect additional manufacturing, processing, and use information. EPA has since made additional changes to the reporting requirements, and in 2011 changed the name of the reporting rule to Chemical Data Reporting. CDR regulations are currently codified at 40 CFR part 711. EPA believes CDR is the only current reporting obligation under TSCA section 8(a) that is likely to affect the manufacturers of inorganic byproduct chemical substances. Information collected under CDR is used to support Agency programs, providing exposure-related data for chemical substances subject to TSCA in U.S. commerce. This information is also made publicly available, to the extent possible while continuing to protect submitted information claimed as confidential business information.

Manufacturers of inorganic chemical substances first reported under the IUR in 2006. They also reported under the CDR in 2012 and 2016. Specific reporting requirements for these manufacturers were phased in, to allow for the industry to better understand the reporting requirements and for EPA to

gain a better understanding of the industry. In recent years, the regulatory requirement to report byproduct chemical substances (and the availability of exemptions from that requirement) has been a frequent topic of discussion.

B. Inorganic Byproduct Chemical Substances Under CDR

A byproduct chemical substance is a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture. Such byproduct chemical substances may, or may not, in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage. Because byproduct chemical substances are manufactured for a commercial purpose, such manufacturing is reportable under CDR unless covered by a specific reporting exemption. CDR contains a specific reporting exemption for the manufacture of byproduct chemical substances, limited to cases where those byproduct chemical substances are not used for any commercial purposes (or are only used for certain limited commercial purposes) after they are manufactured. 40 CFR 711.10(c). Inorganic byproduct chemical substances are often recycled. The recycling of a byproduct chemical substance may qualify as a commercial purpose beyond the limited commercial purposes encompassed by 40 CFR 711.10(c). If so, then the CDR exemption for the manufacturer of a byproduct chemical substance is unavailable.

Beginning in 2006, EPA became aware of a variety of questions raised by the manufacturers of inorganic byproduct chemical substances about their obligations to report their manufacture of those byproduct chemical substances. EPA has since provided detailed guidance to address a variety of questions that have been raised. See 75 FR 49675–6 (2010); 76 FR 50832–3, 50849–50851 (2011). In 2011, EPA also stated that it would examine CDR information related to byproduct chemical substances to identify whether there are segments of byproduct chemical substance manufacturing for which EPA can determine that there is no need for the CDR information to continue to be collected, either for 2016 or for future reporting cycles. 76 FR 50832–3 (2011). EPA did not amend the CDR requirements for the 2016 reporting cycle. Documents providing information to assist inorganic byproduct chemical substance manufacturers with reporting under CDR requirements include:

Instructions for the 2016 TSCA CDR (Ref. 1); CDR Byproduct and Recycling Scenarios (Ref. 2); TSCA CDR Fact Sheet for the Printed Circuit Board Industry (Ref. 3); and TSCA CDR Fact Sheet for Reporting Manufactured Chemical Substances from Metal Mining and Related Activities (Ref. 4).

On June 22, 2016, TSCA was amended by the Lautenberg Act. TSCA now includes a requirement that EPA enter into a negotiated rulemaking, pursuant to the NRA, to develop and publish a proposed rule to limit the reporting requirements under TSCA section 8(a), for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances, whether by the byproduct chemical substance manufacturer or by any other person, are subsequently recycled, reused, or reprocessed. The objective of the negotiated rulemaking process is to develop and publish a proposed rule by June 22, 2019. In the event a proposed rule is developed through the negotiated rulemaking process, a final rule “resulting from such negotiated rulemaking” must be issued by December 22, 2019. 15 U.S.C. 2607(a)(6).

EPA construes its obligation to propose and finalize a rule under TSCA section 8(a)(6) as being contingent on the Negotiated Rulemaking Committee reaching a consensus. EPA’s interpretation is based on several factors. First, TSCA section 8(a)(6)(A) does not give any direction on how CDR reporting requirements for the specified byproduct chemical substance manufacturers should be limited, other than directing that the particular limitations should be negotiated. Second, EPA’s obligation to finalize a rule under TSCA section 8(a)(6)(B) presupposes that such rule would be one “resulting from such negotiated rulemaking.” While EPA would have authority to issue an amendment to the CDR even if negotiation failed to achieve a consensus, such a rule would not be a rule *resulting from* the negotiated rulemaking. Accordingly, TSCA section 8(a)(6)(B) presupposes that the negotiated rulemaking process reached a consensus in directing EPA to issue a final rule. If the obligation to issue a final rule is so contingent, then it stands to reason that the prior obligation to issue a proposal is similarly contingent. Third, the time allotted for issuing a final rule (*i.e.*, six months) is relatively short, consistent with a presupposition that the proposal in question would be the product of a successful negotiation. As noted in Unit III., the process of responding to

comment on a proposal would likely be simplified if that proposal is itself the result of a previously negotiated consensus. For the reasons described above, if consensus cannot be reached, and there is no agreement upon which to base a proposal, then there is no further statutory obligation to issue a proposal or a final rule.

V. Proposed Negotiating Procedures

A. Interests Involved

Section 562 of the NRA defines the term “interest” as one of “multiple parties which have a similar point of view or which are likely to be affected in a similar manner.” We anticipate that the following key interests are likely to be significantly affected by the rule to be addressed by the Negotiated Rulemaking Committee while negotiating how to limit CDR requirements for manufacturers of any inorganic byproduct chemical substances, when such byproduct chemical substances are subsequently recycled, reused, or reprocessed:

- Inorganic chemical manufacturers and processors, including metal mining and related activities;
- Recyclers, including scrap recyclers;
- Industry advocacy groups;
- Environmental advocacy groups;
- Federal, State, or Tribal governments; and
- Employee advocacy groups, such as labor unions.

B. Negotiated Rulemaking Committee Formation

The Negotiated Rulemaking Committee will be formed and operated in full compliance with the requirements of FACA in a manner consistent with the requirements of the NRA.

C. Negotiated Rulemaking Committee Membership

The Agency intends to conduct the negotiated rulemaking proceedings with particular attention to ensuring full and adequate representation of those interests that may be significantly affected by a rule providing for limiting CDR requirements for inorganic byproduct chemical substances. We have listed those interests likely to be significantly affected by a rule in Unit V.A., and the following list identifies the parties that the Agency has initially identified as representing interests likely to be significantly affected by a rule:

- Aluminum Association
- American Chemistry Council
- American Coal Ash Association

- Environmental Defense Fund
- Institute of Scrap Recycling Industries
- IPC—Association Connecting Electronics Industries
- North American Metals Council
- National Mining Association
- U.S. Environmental Protection Agency
- Utility Solid Waste Activities Group

The listed parties have been preliminarily identified by EPA as being either a potential member of the Negotiated Rulemaking Committee, or a potential member of a coalition that would in turn nominate a candidate to represent one of the significantly affected interests listed in Unit V.A. This list is not presented as a complete or exclusive list from which Negotiated Rulemaking Committee members will be selected, nor does inclusion on the list mean that a party on the list has agreed to participate as a member of the Negotiated Rulemaking Committee or as a member of a coalition. This list merely indicates those parties that represent interests that EPA has tentatively identified as being significantly affected by a rule providing for limiting CDR requirements for inorganic byproduct chemical substances.

EPA anticipates that the Negotiated Rulemaking Committee will be comprised of approximately 10–25 members representing significantly affected interests. The EPA Administrator will select members carefully to ensure that there is a balanced representation of such interests on the Negotiated Rulemaking Committee. EPA anticipates that the Negotiated Rulemaking Committee will contain representatives from industry, environmental groups, and state, local, and tribal governments.

One purpose of this document is to determine whether the negotiated rulemaking will significantly affect interests that are not listed in Unit V.A., as well as whether the list of parties the Agency has listed identifies accurately and comprehensively a group of stakeholders representing the significantly affected interests listed in Unit V.A. EPA requests comment and suggestions on the list of significantly affected interests, as well as the list of proposed representatives of those interests. EPA recognizes that any regulatory actions it takes under this program may at times affect various segments of society in different ways, and that this may in some cases produce unique interests in a rule based on demographic factors. Particular attention will be given by the Agency to ensure that any unique interests that have been identified in this regard, and

that may be significantly affected by any rule resulting from the negotiation, are represented.

This document affords potential participants the opportunity to request representation in the negotiations. Request such representation by submitting a comment as described under **ADDRESSES** in this notice.

Section 565(b) of the NRA requires the Agency to limit membership on a Negotiated Rulemaking Committee to 25 members, unless the Agency determines that more members are necessary in order for the Negotiated Rulemaking Committee to function or to achieve balanced membership. The Agency believes that the negotiating group should not exceed 25 members, which would make it difficult to conduct effective negotiations. EPA is aware that there are many more than 25 potential participants to consider for the Negotiated Rulemaking Committee. The Agency does not believe, nor does the NRA contemplate, that each significantly affected interest must participate directly in the negotiations; however, each significantly affected interest can be adequately represented. To have a successful negotiation, it is important for significantly affected interests to identify and form coalitions that adequately represent those interests. These coalitions, to provide adequate representation, must agree to support, both financially and technically, a member to the Negotiated Rulemaking Committee whom they will choose to represent their interest. The Agency believes it is very important to recognize that interested parties who are not selected to membership on the Negotiated Rulemaking Committee can still make valuable contributions to this negotiated rulemaking effort in any of several ways:

- The party could request to be placed on the Negotiated Rulemaking Committee mailing list, submitting written comments, as appropriate;
- The party could attend the Negotiated Rulemaking Committee meetings, which are open to the public, caucus with his or her interest's member on the Negotiated Rulemaking Committee, or even address the Negotiated Rulemaking Committee (usually allowed at the end of an issue's discussion or the end of the session, as time permits); or
- The party could assist a workgroup that might be established by the Negotiated Rulemaking Committee.

An advisory committee may convene informal workgroups to assist the Negotiated Rulemaking Committee in "staffing" various discrete and technical matters (e.g., researching or preparing

summaries of the technical literature or comments on particular matters such as economic issues) so as to facilitate Negotiated Rulemaking Committee deliberations. They also might assist in estimating costs and drafting regulatory text on issues associated with the analysis of the affordability and benefits addressed, and formulating drafts of the various provisions and their justification previously developed by the Negotiated Rulemaking Committee. Given their staffing function, workgroups usually consist of participants who have expertise or particular interest in the technical matter(s) being studied. Because it recognizes the importance of this staffing work for the Negotiated Rulemaking Committee, EPA will provide appropriate administrative and technical expertise for such workgroups.

EPA requests comment regarding particular appointments to membership on the Negotiated Rulemaking Committee. Members can be individuals or organizations. If the effort is to be successful, participants should be able to fully and adequately represent the viewpoints of their respective interests. Those who wish to be appointed as members of the Negotiated Rulemaking Committee should submit a request to EPA by submitting a comment as described under **ADDRESSES** in this notice. The list of potential Negotiated Rulemaking Committee members provided earlier in this document includes those who have been initially identified by EPA as being either a potential member of the Negotiated Rulemaking Committee, or a potential member of a coalition that would in turn nominate a candidate to represent one of the significantly affected interests on the Negotiated Rulemaking Committee.

EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

D. Good Faith Negotiation

Negotiated Rulemaking Committee members should be willing to negotiate in good faith and have the authority, from her or his constituency, to do so. The first step is to ensure that each member has good communications with her or his constituencies. An intra-interest network of communication should be established to bring information from the support organization to the member at the table, and to take information from the table back to the support organization. Second, each organization or coalition should, therefore, designate as its

representative an official with credibility and authority to insure that needed information is provided and decisions are made in a timely fashion.

Negotiated rulemaking efforts can require a very significant contribution of time by the appointed members. The convening meeting of the Negotiated Rulemaking Committee is expected to be held in March 2017, and the work of the Negotiated Rulemaking Committee is expected to conclude approximately in September 2017.

Other qualities that can be very helpful are negotiating experience and skills, as well as sufficient technical knowledge to participate in substantive negotiations. Certain concepts are central to negotiating in good faith. One is the willingness to bring key issues to the bargaining table in an attempt to reach a consensus, instead of keeping issues in reserve. The second is a willingness to keep the issues at the table and not take them to other forums. Finally, good faith includes a willingness to move away from the type of positions usually taken in a more traditional rulemaking process, and instead explore openly with other parties all ideas that may emerge from the discussions of the Negotiated Rulemaking Committee.

E. Facilitator

The facilitator will not be involved with the substantive development of any proposed rule. Rather, the facilitator's role generally includes facilitating the meetings of the Negotiated Rulemaking Committee in an impartial manner and impartially assisting the members of the Negotiated Rulemaking Committee in conducting discussions and negotiations.

F. EPA Representative

The EPA representative will be a full and active participant in the consensus building negotiations. The Agency's representative will meet regularly with various senior Agency officials, briefing them on the negotiations and receiving their suggestions and advice, in order to effectively represent the Agency's views regarding the issues before the Negotiated Rulemaking Committee. EPA's representative also will ensure that the entire spectrum of federal governmental interests affected by the rulemaking, including the Office of Management and Budget (OMB) and other Departments and agencies, are kept informed of the negotiations and encouraged to make their concerns known in a timely fashion.

VI. Comments Requested

EPA requests comment on the extent to which the issues, interests, Negotiated Rulemaking Committee representatives, and procedures described in this document are adequate and appropriate.

VII. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents 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. EPA (2016). Instructions for Reporting 2016 TSCA CDR, https://www.epa.gov/sites/production/files/2016-05/documents/instructions_for_reporting_2016_tsc_a_cdr_13may2016.pdf. Retrieved October 21, 2016.
2. EPA (2012). CDR Byproduct and Recycling Scenarios, https://www.epa.gov/sites/production/files/documents/2012_cdr_byproducts_scenarios_0.pdf. Retrieved October 21, 2016.
3. EPA (2016). TSCA CDR Fact Sheet: Byproducts Reporting for the Printed Circuit Board Industry, https://www.epa.gov/sites/production/files/2016-02/documents/final_cdr_fact_sheet_printed_circuit_board_2_22_16.pdf. Retrieved October 21, 2016.
4. EPA (2016). TSCA CDR Fact Sheet: Reporting Manufactured Chemical Substances from Metal Mining and Related Activities, https://www.epa.gov/sites/production/files/2016-05/documents/cdr_fact_sheet_metal_mining_5may2016.pdf. Retrieved October 21, 2016.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 7, 2016.

Jim Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2016-30177 Filed 12-14-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[9956-91-OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Oregon's request

to revise/modify its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective December 15, 2016.

FOR FURTHER INFORMATION CONTACT:

Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566-1175, seeh.karen@epa.gov.

SUPPLEMENTARY INFORMATION: On

October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On November 3, 2016, the Oregon Department of Environmental Quality (OR DEQ) submitted an application titled "National Pollutant Discharge Elimination System" for revision/modification to its EPA-approved program under title 40 CFR to allow new electronic reporting. EPA reviewed OR DEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for