

general commercial use of Bcc. EPA has identified field studies of Bcc in the biodegradation of chlorinated solvents in groundwater. (See Reference 15, 67 FR 1185, January 9, 2002) EPA expects only limited exposures from the identified field studies of Bcc as only technically qualified individuals are growing and injecting Bcc directly into groundwater. Other potential uses identified for Bcc which include bioremediation (degradation of toxic chemicals), degradation of grease in drains, turf management, and specialty chemicals production, could significantly increase dermal and inhalation exposures of Bcc to human beings as well as releases to the environment. Currently, there are no exposures to human beings and no releases to the environment from these uses. In most cases these exposures would be higher than typically found in nature and more likely to be encountered by a member of a sensitive population.

EPA wants to achieve the following objectives with regard to the significant new uses that are designated in this rule. EPA wants to ensure that:

- EPA will receive notice of any company's intent to manufacture, import, or process Bcc for a significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in an MCAN or TERA before the notice submitter begins manufacturing, importing, or processing Bcc for a significant new use.
- EPA would be able to regulate prospective manufacturers, importers, or processors of Bcc before a significant new use occurs, provided such regulation is warranted pursuant to TSCA section 5(e) or section (5)(f).

V. Alternatives

Before issuing this SNUR, EPA considered the following alternative regulatory actions for Bcc. In addition, EPA determined that Bcc is currently not subject to Federal notification requirements.

1. *Promulgate a TSCA section 8(a) reporting rule for Bcc.* Under a TSCA section 8(a) rule, EPA could require any person to report information to the Agency when they intend to manufacture or import Bcc. However, the use of TSCA section 8(a) rather than the SNUR authority, would not provide the opportunity for EPA to review human and environmental hazards and exposures associated with the new uses of these substances and, if necessary, to take immediate regulatory action under TSCA section 5(e) or section 5(f) to prohibit or limit the activity before it

begins. In addition, EPA may not receive important information from small businesses, because those firms generally are exempt from TSCA section 8(a) reporting requirements. In view of EPA's concerns about Bcc and its interest in having the opportunity to review these substances and regulate them as appropriate, pending the development of exposure and/or hazard information should a significant new use be initiated, the Agency believes that a TSCA section 8(a) rule for Bcc would not meet all of EPA's regulatory objectives.

2. *Regulate Bcc under TSCA section 6.* EPA must regulate under TSCA section 6 if there is a reasonable basis to conclude that the manufacture, import, processing, distribution in commerce, use, or disposal of a chemical substance or mixture "presents or will present" an unreasonable risk of injury to human health or the environment. Based on EPA's findings that there is currently no general commercial use of Bcc, EPA concluded that risk management action under TSCA section 6 is not necessary at this time. This SNUR will allow the Agency to address the potential risks associated with any intended significant new use of Bcc.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require the development of any particular test data before submission of a MCAN or TSCA Experimental Release Application (TERA). Persons are required only to submit test data 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 725.160).

However, in view of the potential health risks posed by the significant new uses of Bcc, EPA requests that potential MCAN or TERA submitters include data that would permit a reasoned evaluation of risks posed by Bcc when used for an intended significant new use. EPA also requests that potential MCAN or TERA submitters include data that demonstrate that the bacteria which would be the subject of the MCAN or TERA are in fact in the Bcc. EPA encourages persons to consult with the Agency before submitting an MCAN or TERA for Bcc. As part of this optional pre-notice consultation, EPA will discuss specific data it believes are necessary to evaluate a significant new use of Bcc. EPA urges MCAN or TERA submitters to provide detailed information on human and environmental exposures that would result or could reasonably be

anticipated to result from the significant new uses of Bcc. In addition, EPA encourages persons to submit information on risks posed by Bcc compared to risks posed by possible substitutes. An MCAN or TERA submitted without sufficient data to reasonably evaluate risks posed by a significant new use of Bcc may increase the likelihood that EPA will take action under TSCA section 5(e).

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

EPA believes that the intent of section 5(a)(1)(B) of TSCA is best served by designating a use as a significant new use as of the proposal date of the SNUR, rather than as of the effective date of the final rule. If uses begun after publication of the proposed SNUR were considered to be ongoing, rather than new, it would be difficult for EPA to establish notification requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the proposed rule became final, and then argue that the use was ongoing.

Any person who, after publication of the proposed SNUR, began commercial manufacture, import, or processing of Bcc, for the significant new use in this SNUR, must stop such activity before the effective date of the final rule. To resume commercial manufacture, import or processing of Bcc, those persons will have to meet all applicable MCAN or TERA requirements and wait until the notice review period, including all extensions, expires before engaging in any commercial manufacture, import, or processing of Bcc for a significant new use. If, however, persons who began commercial manufacture or import of Bcc for a significant new use between the proposal and the effective date of the final SNUR met the conditions of advance compliance as codified at 40 CFR 725.912, those persons would be considered to have met the requirements of the final SNUR for those activities.

VIII. Economic Considerations

EPA has evaluated the potential costs of establishing a SNUR for potential manufacturers, importers, and processors of Bcc. These potential costs are related to the submission of MCANs, TERAs, and the export notification requirements of TSCA section 12(b). EPA notes that, the costs of submission of MCANs or TERAs will not be incurred by any company unless that company decides to pursue a significant new use as defined in this SNUR. The