

NOTICES

TOXIC SUBSTANCES CONTROL
PROCEDURES FOR NOTIFICATION UNDER SECTION 8(e)
OF THE TOXIC SUBSTANCES CONTROL ACT

Section 8(e) of the Toxic Substances Control Act (TSCA) (Pub.L. 94469, 90 Stat. 2029, 15 U.S.C. 2607) requires any person to report immediately to EPA any information the person obtains which

- (1) pertains to a chemical substance or mixture which that person manufactures, processes, or distributes, and
 - (2) reasonably supports the conclusion that the chemical substance or mixture presents a substantial risk of injury to health or the environment,
- unless the person has actual knowledge that the Administrator has been adequately informed of such information.

Information known to or possessed by a person prior to the effective date of TSCA. TSCA becomes effective on January 1, 1977. Comments addressed to EPA have argued that because Section 8(e) requires the reporting of information by "Any person . . . who obtains information . . .," the Section should be construed to apply only to information otherwise described by the Section which first comes into the possession or knowledge of the person on or after January 1, 1977. The Administrator disagrees with this argument. The purpose of the requirement is to bring to the Administrator's immediate attention information dealing with substantial risks posed by substances or mixtures, so that appropriate action may be taken. It would be contrary to public policy to construe the reporting requirement in a manner which would allow such information to go unreported

merely because it was known to a person before January 1, 1977. Accordingly, the Administrator's view is that the reporting requirement applies to information possessed by or known to a person before, on, or after January 1, 1977, and otherwise subject to the requirement. However, in order to permit industry a reasonable amount of time to review its files, additional time has been granted, as set forth below, to report data obtained prior to January 1, 1977.

It is not the Administrator's intent to unduly burden industry by requiring an immediate exhaustive search of all files. Sections 8(c), 8(d) and 8(e) of TSCA provide a comprehensive scheme for the regulation and reporting of data concerning the adverse effects of toxic substances, and a rule setting forth more detailed procedures concerning health and safety studies will be promulgated in the near future. However, if there are significant adverse data concerning a particular toxic substance which are not generally available to EPA, the Administrator needs to be informed as soon as it is practicable.

Persons subject to the requirement.

The requirements of Section 8(e) apply only to the following persons:

- (1) business organization which manufacture, process, or distribute in commerce, for commercial purposes, one or more chemical substances or mixtures, and
- (2) those employees of business organizations described in (1) whose duties are supervisory in nature or who are members of learned professions.

A person will be considered to have obtained information, within TSCA Section 8(e), if and when (1) he comes (or came) into possession of the information, or (2) he becomes (or became) aware of the information and has the authority to require the information be furnished to him.

1-2-77-557-11

Meaning of the term "immediately".

TSCA Section 8(e) states that information subject to the reporting requirement must be reported "immediately". Information will be considered to have been reported "immediately" if:

(a) information obtained before January 1, 1977 is reported as soon as practicable but not later than April 1, 1977;

(b) information obtained on or after January 1, 1977 is reported not later than the 10th calendar day after the date the person obtained the information;

provided, however, that an employee of a business organization shall be considered to have reported information "immediately" if the employee reported the information on the 30th calendar day after he obtained it or the 30th calendar day after the date by which his employer was required to report the information, whichever date is later.

Notice Procedure.

Notices shall be mailed to the Director of the Office of Toxic Substances, Environmental Protection Agency, Mail Code WH-557, 401 M Street, S.W., Washington, D.C. 20460. A notice may be filed in person at the Director's office at the above address. The Director will inform the sending party of his receipt of the notice.

Any notice should state that it is being submitted in accordance with Section 8(e), should be sent by certified mail and should contain the name and address of the manufacturer, processor or distributor. In addition, any such notice should contain the specific source of the information and be accompanied by any available supporting technical

data. Merely stating that the sender has information which pertains to the requirements of Section 8(e) is not sufficient.

Illustrative Types of Information.

The following types of information on a chemical substance or mixture when they indicate significant adverse effects on health or the environment are considered worthy of notice to the Administrator:

- (a) human and animal toxicological research studies;
- (b) epidemiological studies;
- (c) studies of environmental damage from the release of a chemical substance; and
- (d) case histories of employee exposure to chemical substances;

In addition, the following types of information when they indicate significant potential of exposure to man or the environment from a chemical substance or mixture are considered worthy of notice to the Administrator:

- (e) studies of the environmental fate of a chemical substance indicating persistence;
- (f) monitoring studies indicating the presence of significant amounts of the chemical substance in environmental media, or any amounts indicating accumulation in biota; and
- (g) studies showing lack of effectiveness of required or other pollution control technology.

This list is not intended to be exhaustive, and other types of information indicating adverse effects should also be considered.

Information which need not be reported.

The Administrator will be considered to have been adequately informed of information which:

- (a) is contained in reports published by EPA;

- (b) has already been provided to EPA for pesticide registration purposes under Section 3(c)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended;
- (c) is obtained from widely available literature published in the United States including newspapers, periodicals, and scientific journals;
- (d) is contained in notification of spills to the Administrator under Section 311(b)(5) of the Federal Water Pollution Control Act;
- (e) is contained in a notice submitted under Section 6(a)(2) of FIFRA; or
- (f) has been submitted in accordance with the TSCA.

Russell E. Train
Administrator