

TUESDAY, OCTOBER 24, 1978

PART IV



**PLAINTIFF'S
EXHIBIT**

KM-375

**ENVIRONMENTAL
PROTECTION
AGENCY**

**TOXIC SUBSTANCES
CONTROL ACT**

**Policy for Revised Inventory
Reporting; Draft Report Form**

KMX 01183

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Office of Toxic Substances

(FRL-993-5; OTS-081002C)

POLICY FOR REPORTING FOR THE REVISED INVENTORY DRAFT REPORT FORM

AGENCY: Environmental Protection Agency.

ACTION: Policy for Revised Inventory Reporting; draft report form.

SUMMARY: The inventory reporting regulations, promulgated under the authority of the Toxic Substances Control Act (TSCA), govern the reporting of chemical substances to create an Inventory of chemical substances manufactured, imported, or processed in the United States for a commercial purpose. Under these regulations the Inventory will be compiled in two phases. In early 1979, the Agency will publish an Initial Inventory of Chemical Substances manufactured or imported for a commercial purpose since January 1, 1975. Following publication of the Initial Inventory, there will be a special, 210-day period during which processors and certain importers of chemical substances will have an opportunity to add substances to the Inventory in order to insure compliance with TSCA. This second phase will result in publication of a Revised Inventory sometime in 1980.

This notice addresses Agency policy concerning reporting for the Revised Inventory and proposes a draft report form for public comment. In addition, persons may use the coupon provided in this notice to reserve a copy of the Initial Inventory in printed form or microfiche. EPA will publish another notice in the *FEDERAL REGISTER* to announce the beginning of the 210-day reporting period.

DATES AND ADDRESS: Comments on the proposed report form must be received on or before December 8, 1978, and should be addressed to: Ms. Joyce Barbour, U.S. Environmental Protection Agency, Office of Toxic Substances (TS-793), 401 M Street SW., Washington, D.C., 20460. Comments should bear the identifying notation OTS-081002C. All written comments filed pursuant to this notice will be available for public inspection at the above address in room 711A, East Tower, from 8 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Director, Industry Assistance Office,
Office of Toxic Substances (TS-788),
Environmental Protection Agency,
401 M Street SW., Washington, D.C.,

20460. Or call the toll-free number, 800-424-9065. In Washington, D.C., please call 554-1404. Applications for reserving copies of the Initial Inventory should be sent to the above address. Persons who wish to receive copies of the Inventory reporting regulations and supplements to the regulations should call the toll-free number listed above.

SUPPLEMENTARY INFORMATION: The Inventory reporting regulations (40 CFR Part 710) were promulgated under the authority of section 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA. These regulations were published in the *FEDERAL REGISTER* on December 23, 1977 (42 FR 64572), and were supplemented on March 6, 1978 (48 FR 9254) and April 17, 1978 (43 FR 16178). The regulations implemented section 8(b) of TSCA, which requires the Administrator of the Environmental Protection Agency (EPA) to compile, keep current, and publish a list of chemical substances manufactured, imported, or processed in the United States for a commercial purpose.

Section 710.6 of the Inventory reporting regulations establishes a two-phase reporting schedule designed to prevent duplicative reporting. During the initial reporting period, which ended on May 1, 1978, certain manufacturers and importers reported to EPA concerning chemical substances they manufactured or imported for a commercial purpose since January 1, 1975. Based on these reports, EPA will publish an Initial Inventory early in 1979. Persons who begin manufacture or importation of a chemical substance after May 1, 1978, are permitted to report that substance for the Inventory up to 30 days after publication of the Initial Inventory. At that time the premanufacture notification requirements of section 5(a)(1)(A) of TSCA will take effect for all persons who intended to manufacture or import (in bulk form), for a commercial purpose, a chemical substance not included on the Initial Inventory. Rules governing premanufacture notification are currently being developed by EPA and will be proposed in the *FEDERAL REGISTER* for public comment.

A second reporting period lasting 210 days will begin when the Initial Inventory is published. During this period, a person may report a chemical substance that was not included on the Initial Inventory if the person has processed or used the chemical substance (including use in the manufacture of a mixture or article containing the chemical substance) for a commercial purpose since January 1, 1975, or the person has imported the substance as part of a mixture or article for a commercial purpose since January 1,

1975. A manufacturer or importer (in bulk) of a chemical substance for a commercial purpose may not report for the Revised Inventory; he is subject to premanufacture notification requirements 30 days after the Initial Inventory is published. Reporting by processors and users for the Revised Inventory is solely intended to supplement the Initial Inventory. EPA will publish one or more supplements to the Initial Inventory during the revised Inventory reporting period. These supplements will include substances that were omitted from the Initial Inventory due to late reporting or errors, substances reported for the Revised Inventory, and substances that have completed premanufacture review. The Agency expects to publish the Revised Inventory sometime in 1980.

After publication of the Revised Inventory, it will become unlawful for any person to process or use for a commercial purpose a chemical substance that was manufactured or processed in violation of section 5 of TSCA. Thirty days after publication of the Revised Inventory, the premanufacture notification requirements of section 5 of TSCA will be applied to importers of new chemical substances as part of mixtures.

IMPORTED ARTICLES

In the near future EPA will issue proposed rules to govern the premanufacture notification review program under TSCA. These proposed rules would maintain the policy established under the Inventory reporting regulations with respect to the premanufacture notification requirements for importers of chemical substances. Under this policy, set forth in the *FEDERAL REGISTER* on October 3, 1977 (14 FR 53804), December 23, 1977 (42 FR 64572), and March 6, 1978 (43 FR 9254), premanufacture notification initially will apply *only* to importation of new chemical substances in bulk form (30 days after publication of the Initial Inventory) and to importation of new chemical substances as part of mixtures (30 days after publication of the Revised Inventory). Importers of chemical substances as part of articles will not be subject to premanufacture notification requirements at this time. However, at a later date the Agency may propose to apply premanufacture notification requirements to certain categories of chemical substances imported as part of articles after providing importers an opportunity to report existing substances falling within such categories for inclusion on the Inventory. The proposal would be followed by a public comment period prior to any change in the Agency's current policy. EPA continues to welcome comments on this issue.

PROCESSORS AND USERS

For purposes of the Inventory reporting regulations, "processors" and "users" of chemical substances "for commercial purposes" are persons who (1) prepare for distribution in commerce or (2) use as an intermediate a chemical substance that has *already been manufactured*. (See § 710.2 (t), (u), and (v)). Examples are persons who use chemical substances to manufacture mixtures or articles and persons who grind, pulverize, blend, or repackage chemical substances for a commercial purpose. A person who uses a chemical substance as an intermediate in the intentional manufacture of another chemical substance is considered a processor of the intermediate.

EPA wishes to emphasize that processors and users of chemical substances are *not required* to report substances for the Inventory. The Revised Inventory reporting period is an opportunity for them to add to the Inventory substances that may not have been reported by a manufacturer of importer, in order to insure a continuing supply of a particular substance and avoid penalties under TSCA. Once a chemical substance has been reported by a processor or user and included on the Inventory, it may be manufactured or imported for a commercial purpose without going through premanufacture notification.

REPORTING TRADEMARKS

Chemical substances reported for the Revised Inventory must qualify as "reportable chemical substances" (see Chapter II, "Reporting for the Chemical Substance Inventory," (December 1977)), and must not be included on the Initial Inventory.

All reported substances must be identified as specifically as possible. EPA will not process report forms on which a substance is identified only by a trademark or brand name. However, EPA recognizes that processors may know certain products only by a trademark or brand name (e.g., "Brand X"). Such products may be comprised of one or more reportable chemical substances. Processors should either determine that the component substances are included on the Initial Inventory and therefore should not be reported, or obtain the specific identities of the substances from the supplier and report them for inclusion on the Revised Inventory. The procedure outlined below should assist processors in obtaining this information.

To determine whether the substances comprising a trademarked product are included on the Initial Inventory, a processor should first consult the Product Trademark List. This list, which is currently being compiled from Form D reports submitted during

the initial reporting period, will be available in advance of the Initial Inventory. Manufacturers who reported their product trademarks for inclusion on this list were required to certify that all reportable chemical substances comprising the trademarked product had been reported for the Initial Inventory. Processors who reported product trademarks were required to certify that any component chemical substance not reported for the Initial Inventory would be reported by them for the Revised Inventory. (Refer to 43 FR 9254, March 6, 1978.) Therefore, if a trademark appears on the Product Trademark List the component chemical substances should not be reported for the Revised Inventory by anyone other than the person who reported the trademark.

Reporting of trademarks for inclusion on the Product Trademark List was strictly voluntary. Therefore, not all eligible trademarks will be included on the list. If a trademarked product does not appear on the Product Trademark List, a processor should ask his supplier to (1) provide him with a letter certifying that all reportable chemical substances comprising the trademarked product have been reported for the Inventory, or (2) reveal to the processor the identity of the component substances so that the processor may determine whether or not the substances are reportable, and, if they are, report them for the Revised Inventory. If the supplier refuses to do either of the above, the processor should submit a report form to EPA, providing the name and address of the supplier and the name of the trademarked product, and indicating that his supplier has refused to provide him the information necessary to determine whether he should report for the Revised Inventory. EPA will then attempt to obtain the necessary information directly from the supplier.

An importer of a chemical substance as part of a mixture or article may not know the true identity of the chemical substance because the foreign supplier may choose to keep it confidential. In this situation, the importer may be assisted in reporting by the foreign supplier, who would report the substance identity directly to EPA. EPA has established a procedure for reporting in this manner in the instruction booklet "Reporting for the Chemical Substance Inventory" (December 1977). A revised edition of this booklet will be available in advance of publication of the Initial Inventory.

DRAFT REPORT FORM

EPA is proposing a single report form to be used in reporting for the Revised Inventory. This form, on which one chemical substance may be reported, would replace Forms A, B,

and C, which were used during the Initial Inventory reporting period. This single form approach represents a slight deviation from § 710.5(b) of the Inventory reporting regulations, which specifies use of three separate forms depending on whether (1) the substance appeared on the TSCA Candidate List of Chemical Substances (Form A), (2) the substance did not appear on the Candidate List but had a Chemical Abstracts Service (CAS) Registry Number (Form B), or (3) the substance had no CAS Registry Number or the substance identity was claimed as confidential (Form C). The draft form is essentially a revised Form C, and would be used to report a chemical substance that falls within any of the above three categories.

EPA expects to receive reports on relatively few chemical substances during the Revised Inventory reporting period. Most of the substances eligible for inclusion on the Inventory should have been reported by their manufacturers and importers during the initial reporting period. The large number of substances reported during this period justified the printing and distribution of three separate forms, two of which were designed to allow reporting of several substances on a single form. There should be few cases in which a processor reports a chemical substance not reported by a manufacturer or importer during the initial reporting period. In addition, persons who import chemical substances as part of mixtures or articles had the option of reporting during the initial reporting period, and are expected to add relatively few substances to the Inventory during the Revised Inventory reporting period. Therefore, EPA has determined that three separate forms would not be necessary and that a single form should be adequate for Revised Inventory reporting. The Agency specifically welcomes comment on the report form.

I. CERTIFICATION STATEMENT

The Revised Inventory report form must be signed by a responsible company official, attesting to the trust of the following certification statement: "I hereby certify that, to the best of my knowledge and belief: (1) The chemical substance identified below (a) is not included on the Initial Inventory, (b) is eligible for inclusion on the Revised Inventory under 40 CFR 710.3(b) as it has been processed or used for a commercial purpose since January 1, 1975, or has been imported as part of a mixture or article for a commercial purpose since January 1, 1975, and (c) was not manufactured or imported (in bulk form) for a commercial purpose for the first time after the effective date of premanufacture notification requirements for manu-

facturers of chemical substances and importers of chemical substances in bulk form; (2) all information entered on this form is complete and accurate; and (3) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here."

A foreign supplier who assists an importer in reporting a substance for the Inventory must also sign the form attesting to the completeness and accuracy of all information he provides on behalf of the importer. A trade association or other agent reporting on behalf of a person must follow the procedures of § 710.5(f) of the inventory reporting regulations.

II. REQUIRED INFORMATION

Persons who choose to report for the Revised Inventory must provide the following information on the form: (1) The name and address of the reporting company (or corporation, trade association or other agent); (2) the specific identity of the chemical substance (including its CAS Registry Number, if known); and (3) the activity the reporting company is engaged in with respect to the chemical substance (i.e., "process" or "import"). Persons should also provide the name, address, and phone number of a principal technical contact, whom EPA may contact to clarify any information submitted on the form. Detailed instructions for completing the form will be distributed with the forms, and will follow the approach of the instruction booklet for the Initial Inventory, "Reporting for the Chemical Substance Inventory" (December 1977).

III. CONFIDENTIALITY

Section 710.7 of the inventory reporting regulations outlines the confidentiality provisions. A processor or importer may claim as confidential whether he processes or imports the chemical substance by checking the box labeled "Activity" under the heading "Confidentiality Claims." In addition, he may claim as confidential the link between his company and the chemical substance by checking the box labeled "Company" under the same heading. By signing the certification statement, he attests to the trust of the following confidentiality state-

ments appearing on the back of the form.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).

3. The information is not publicly available elsewhere.

4. Disclosure of the information would cause substantial harm to our competitive position.

In accordance with § 710.7(e) of the inventory reporting regulations, a person may claim the specific identity of a chemical substance as confidential if such person believes that inclusion of the specific chemical identity on the Inventory would reveal the trade secret fact that the particular substance is manufactured, imported, or processed by anyone for a commercial purpose. Such claims must be substantiated in writing, addressing the points specified in the instruction manual, "Reporting for the Chemical Substance Inventory." The person must also propose a generic (less specific) chemical name for the substance and agree to certain other provisions of § 710.7(e) of the regulations. Such persons should adhere to the procedures detailed in the EPA document "Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities for the TSCA Inventory," which may be obtained from the Industry Assistance Office by calling the toll-free number listed at the beginning of this notice. If EPA determines that the specific substance identity is entitled to confidential treatment, the specific identity will not be included on the published Inventory. Rather, EPA will publish a generic chemical name for the substance in the Confidential Chemical Substance Appendix to the Inventory.

RESERVING A COPY OF THE INVENTORY

Persons who reported chemical substances for the Initial Inventory and persons who have the opportunity to make additions to the Inventory during the second reporting period should carefully examine the Initial Inventory for completeness and accuracy. Processors and importers who may report for the Revised Inventory should consult the Product Trademark

List in addition to the Initial Inventory. The Product Trademark List will be available in advance of the Initial Inventory, and may be obtained from EPA's Industry Assistance Office by completing the coupon provided in this notice. Persons who are interested in obtaining a copy of the Product Trademark list only are encouraged to check the appropriate box on the coupon. Persons who reserve a copy of the complete Initial Inventory will automatically receive a copy of the Product Trademark List.

Because of the anticipated size of the Initial Inventory and the large number of copies EPA expects to make available, printing and distribution costs will be very high. EPA will take the following measures to keep the cost as low as possible:

(1) EPA will provide one free copy of the Initial Inventory, in printed form or microfiche, to each company, corporation (or subsidiary, division or major department of a large corporation), or interested organization while supplies last. EPA encourages persons to request microfiche copies wherever equipment permits, since these copies are less expensive to print and distribute.

(2) EPA will place reference copies of the Initial Inventory, in printed form or microfiche (as equipment permits) in the libraries of all large cities, GPO regional depository libraries, State environmental offices, and EPA regional offices. Persons requiring minimal access to the Inventory are encouraged to make use of reference copies, rather than ordering a complete copy of the Inventory from EPA.

(3) Additional copies of the Initial Inventory will be available in printed form and microfiche through the Government Printing Office (GPO) or other source at a cost to be specified later.

(4) A computer readable version of the Initial Inventory will be available at a cost to be specified later.

In order to determine the number of copies of the Initial Inventory EPA needs to print in hard copy and on microfiche, affected persons are encouraged to complete the coupon below and mail it to the Industry Assistance Office by November 30, 1978. A company that reserves a copy of the Initial Inventory in this manner can expect to receive its free copy automatically after the Inventory is published.

Dated: October 18, 1978.

STEVEN D. JELLINEK,
Assistant Administrator
for Toxic Substances

[6560-01-C]

Initial Inventory (TS-799)
Industry Assistance Office
E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

(Date) _____

Please reserve one (1) copy of (check one):

☐ complete Initial TSCA Chemical Substance Inventory, or☐ Product Trademark List onlyin (check one): ☐ Printed Form ☐ Microfiche

for:

(Name) _____

(Company) _____

(Address or P.O. Box) _____

(City) _____

(State) _____

(ZIP) _____

My company is a: ☐ manufacturer ☐ processor ☐ importer
of chemical substances or ☐ other (please check one or more as
appropriate).

(Signature) _____

EPA Form 7710-23 (10-78)

IMPORTANT: Before completing this form, carefully read the EPA publication "Reporting for the Chemical Substance Inventory." That document contains instructions for properly completing this form.

U.S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8(a) and (b) Toxic Substances Control Act 15 USC 2607)		REVISED INVENTORY (40 CFR 710.3(b))													
I. CERTIFICATION STATEMENT I hereby certify that to the best of my knowledge and belief: 1) the chemical substance identified below has not been included on the Initial Inventory; 2) it is eligible for inclusion on the Revised Inventory under 40 CFR 710.3(b) as it has been processed or used for a commercial purpose since January 1, 1979 or has been reported as part of a mixture or article for a commercial purpose since January 1, 1979; and 3) it was not manufactured or imported in bulk form for a commercial purpose for the first time after the effective date of manufacturing notification requirements for manufacturers of chemical substances and importers of chemical substances in bulk form; 2) all information entered on this form is complete and accurate; and 3) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here. SIGNATURE _____ DATE _____ NAME / TITLE / TYPE OR PRINT _____															
II. COMPANY NAME/ADDRESS NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____		III. PRINCIPAL TECHNICAL CONTACT(S) NAME _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____ PHONE _____													
IV. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY CLAIMS															
CAS REGISTRY NUMBER (If known) _____	SPECIFIC CHEMICAL NAME SEPARATE SYNONYMS WITH A SEMICOLON _____	ACTIVITY <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>PROCESS</th> <th>IMPORT</th> <th>EXPORT</th> <th>USE</th> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </table>	PROCESS	IMPORT	EXPORT	USE	_____	_____	_____	_____	CONFIDENTIALITY <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>ACTIVITY</th> <th>CONFIDENTIALITY</th> </tr> <tr> <td style="text-align: center;">_____</td> <td style="text-align: center;">_____</td> </tr> </table>	ACTIVITY	CONFIDENTIALITY	_____	_____
PROCESS	IMPORT	EXPORT	USE												
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IN THE SPACE PROVIDED BELOW, PROVIDE STRUCTURAL INFORMATION, MOLECULAR FORMULA, AND OTHER SUPPLEMENTAL INFORMATION TO AID IN THE SPECIFIC IDENTIFICATION OF THE CHEMICAL SUBSTANCE _____ MOLECULAR FORMULA _____		☐ SEE ATTACHED SHEETS NO. OF SHEETS _____ WRITE FORM NO. ON ALL ATTACHMENTS _____													
DRAFT Do Not Use		☐ CHEMICAL SUBSTANCE IDENTITY IS CONFIDENTIAL (1) SUBSTANTIATION: _____ (2) Proposed Chemical Name: _____													
		☐ I agree to the terms of CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITY STATEMENT on the back of this form													

One Time (Expires Jan. 1, 1979)
EPA Form 7710-A

[FR Doc. 78-29874 Filed 10-23-78; 8:45 am]

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Agency

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