

Dated: February 3, 1983.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: February 3, 1983.

Samuel N. Miller, Jr.,

Assistant Secretary for Energy and Minerals.

FR Doc. 83-3983 Filed 2-13-83; 9:45 am

BILLING CODE 4310-26-01

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[OPTS-80012A; TSH-FRL 2303-5]

Inventory Reporting Regulations; Release of Aggregate Production Statistics

AGENCY: Environmental Protection Agency.

ACTION: Rule related notice.

SUMMARY: The Environmental Protection Agency (EPA) will publicly release aggregate total production statistics for substances reported for the Toxic Substances Control Act (TSCA) Chemical Substances Inventory which have one or more confidentiality claims for production volume associated with them. This notice describes the aggregation method that will be used. The confidentiality of individual production ranges will be protected from disclosure by using broad aggregate ranges to express the total production level for each substance. Aggregate data for a substance will be released only if it would not be possible to use public inventory information to identify any of the individual confidential reports that comprise the aggregate to closer than three inventory reporting ranges. This notice also provides companies the opportunity to request that certain aggregate information not be released if it could cause economic harm to the company.

DATES: Requests that aggregate production information for individual substances not be released must be received by EPA by March 31, 1983. Aggregate information will be made available on April 15, 1983.

ADDRESS: See paragraph V. "Requests For Exemption From Release of Data" in Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Chris Tirpak, Acting Director, Industry Assistance Office (TS-790), Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460; toll free: (800-424-9005), in Washington, D.C.: (554-1404), outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of June 23, 1982 (47 FR 27075), EPA announced proposed procedures for releasing aggregate production statistics for substances listed on the Toxic Substances Control Act (TSCA) Chemical Substances Inventory and requested comments from interested parties. This notice describes the modifications that have been made to the proposed procedures in response to public comments. It also announces the Agency's intent to make the aggregate production data available to the public on April 15, 1983.

EPA's commitment to produce these procedures arises from the Final Inventory Reporting Regulations, published in the Federal Register of December 23, 1977 (42 FR 64392), and the Notice of Availability of the TSCA Initial Inventory, published in the Federal Register of May 15, 1979 (44 FR 28561), in which the Agency stated that it would develop aggregation rules for releasing inventory data. EPA has received numerous inquiries about inventory production information from State governments and different sectors of the public. The Agency believes that it is strongly in the public interest that this aggregate data be released.

II. Characteristics of the Inventory

Companies that reported for the Inventory were required to indicate that their 1977 production for each substance fell into one of the following eleven ranges:

- N—None
- 0—0 to 1000 lbs.
- 1—1000 to 10,000 lbs.
- 2—10,000 to 100,000 lbs.
- 3—100,000 to 1 million lbs.
- 4—1 million to 10 million lbs.
- 5—10 million to 50 million lbs.
- 6—50 million to 100 million lbs.
- 7—100 million to 500 million lbs.
- 8—500 million to 1 billion lbs.
- 9—Over 1 billion lbs.

Reports were received for almost 60,000 substances. One or more of the submitters of about 30 percent of the substances exercised their option to claim production volume as confidential. Inventory production information which was not claimed as confidential has already been made public.

III. Aggregation Methodology

After investigating alternative techniques for aggregating inventory production information, EPA selected a "roll up" method. The Agency believes that this method provides sufficient protection to individual pieces of confidential information while allowing

EPA to release aggregate production data for the vast majority of inventory substances.

Using the roll up method, the Agency will be able to indicate that the total production level for inventory substances with one or more confidential production claims falls into one of the following broad aggregate ranges:

- Range 1—0 to 1 million lbs.
- Range 2—1 million to 100 million lbs.
- Range 3—100 million to 1 billion lbs.
- Range 4—1 billion lbs. and above.

To determine in which of the four intervals each substance's actual total production range lies, the upper and lower bounds of all production ranges reported (both confidential and non-confidential) were added together for each substance. (The upper bound value for reporting range 9 was presumed to be 4 billion lbs.)

Further protection is afforded to individual pieces of confidential information. Before releasing aggregate information about any substance the Agency requires that the aggregate production range information cannot be combined with whatever nonconfidential production information is available from the public inventory on the substance to reveal individual pieces of confidential production information to closer than three reporting ranges. In other words, no aggregate information will be released for a substance unless the Agency has determined that each submitter's confidential production volume report is masked to the extent that it cannot be identified to closer than three reporting ranges based on the public inventory.

IV. Releasing Aggregate Data

The information released will not include data that are withheld under the constraints described above. In addition, it will not include aggregate information for substances that are exempted from release under the provisions of unit V of this notice.

Aggregate reports will be generated in response to requests made on a substance-by-substance basis. A person requesting reports should provide EPA with the CAS number or chemical identity for each substance for which an aggregate report is desired. Other Federal agencies or State governments may request aggregate data for groups of substances.

V. Requests for Exemption From Release of Data

Two of the commenters on the June 23 notice indicated that, in some relatively unique circumstances, the release of

aggregate production data for inventory substances may reveal information which some submitters may consider sensitive. In response to these concerns, EPA will allow submitters to request that production information for individual inventory substances be exempted from the data aggregation provisions described in this notice.

Exemption requests will be accepted only if the following requirements are fulfilled. Requests must be for single substances and not for groups of substances (for example, an exemption request for all reports submitted by company x will not be accepted). Requests may be made only by one of the original submitters of production information for the substance. A request must include an explanation of why the substance should be exempted from aggregate release. This justification must include a specific description of how competitors might make use of the aggregate information and what kinds of economic detriment the submitter believes it will suffer if such information is released. General assertions of speculative harm will not be accepted. Specific examples must be included of how and why release of aggregate information might injure a company's competitive position for each substance for which an exemption is requested.

Exemption requests will be treated as confidential if so requested. Each page containing confidential material should be marked "Confidential" at the top. Materials which are not so marked will be placed in the public file. Requests should be addressed to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460.

Exemption requests must be postmarked no later than March 31, 1983. Requests postmarked after that date will not be accepted.

If EPA denies an exemption request on substantive grounds, the requester will be contacted and allowed 30 days to respond to the Agency's decision before aggregate data for that substance will be released. If EPA determines that a request is unacceptable or incomplete for one of the reasons cited above, the requester will be contacted and allowed either 10 working days or the remainder of the 30-day request period, whichever is longer, to supplement or correct its request.

(Sec. 8, Pub. L. 94-408, 90 Stat. 2027 (15 U.S.C. 2007))

Dated: January 24, 1983.

Don R. Clay,

Acting Assistant Administrator for Pesticides and Toxic Substances.

(FR Doc. 83-0045 Filed 2-11-83; 2:45 am)

BILLING CODE 5520-02-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

41 CFR Part 105-61

[ADM 7900.2 CHGE 18]

Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service; Restrictions on the Use of Records

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This rule revises the statement of "general restrictions" on access to records accessioned by the National Archives and Records Service (NARS). This revision is fully consistent with the Freedom of Information Act (FOIA) and the 1974 and 1976 amendments thereto, which establish nine exemption categories as the only valid bases for restricting access to accessioned Federal records of the Executive Branch. Five general restrictions are substituted for seventeen general restrictions currently imposed by the Archivist of the United States. A statement of general restrictions is intended to highlight those general categories of information found among the records of many Federal agencies which NARS is most likely to withhold from public use. NARS also imposes "specific restrictions" on access to designated records of a single Federal agency, provided that the restrictions are consistent with the amended FOIA.

DATE: This regulation is effective February 14, 1983.

FOR FURTHER INFORMATION CONTACT: William H. Leary, (202) 523-3061.

SUPPLEMENTARY INFORMATION: This regulation was published as a proposed rule in the Federal Register of August 23, 1982. Two comments were received. One comment recommended amending § 105-61.5302-3 to specify that "efforts will be made to locate the submitting person or firm" before disclosure is made. We agree, but we believe that such instructions should be given in staff training sessions and implementing

directives rather than a general policy statement. A second respondent suggested deleting a phrase from § 105-61.5302-5 that might conflict with the FOIA. That amendment has been made. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 105-61

Archives and records, Classified information, Freedom of information, Government property management, Privacy.

Accordingly, 41 CFR Part 105-61 is amended as follows:

PART 105-61—PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

1. The table of contents for Part 105-61 is amended by adding and removing entries for Subpart 105-61.53 as follows:

- Sec.
105-61.5302-1 National security information.
105-61.5302-2 Information exempted from disclosure by statute.
105-61.5302-3 Trade secrets and commercial or financial information.
105-61.5302-4 Information which would invade the privacy of an individual.
105-61.5302-5 Information related to law enforcement investigations.
105-61.5302-6 Immigration and naturalization certificates and declarations. [Removed]
105-61.5302-18 Individual privacy. [Removed]

Subpart 105-61.53—Restrictions on the Use of Records

2. Section 105-61.5302 is revised to read as follows:

§ 105-61.5302-1 National security information.

(a) Records. Records containing information regarding national defense