

FRIDAY, DECEMBER 23, 1977

PART VI



ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL

Inventory Reporting Requirements

KMX 01186

[6560-01]**Title 40—Protection of Environment****CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY****SUBCHAPTER R—TOXIC SUBSTANCES
CONTROL**

[OTS-081002A; FRL 817-1]

**PART 710—INVENTORY REPORTING
REGULATIONS****AGENCY:** Environmental Protection Agency.**ACTION:** Final rules.**SUMMARY:** This notice promulgates the inventory reporting regulations proposed on March 9 and August 2, 1977 in the *FEDERAL REGISTER* and supplemented thereafter. Specifically, these regulations require some persons who manufacture or import chemical substances:

(1) To report the identity of each chemical substance manufactured at each site of manufacture, or imported into the United States, for a commercial purpose;

(2) To estimate the amount of each chemical substance manufactured at each site, or imported during calendar year 1977; and

(3) To indicate whether each such chemical substance is manufactured and used only within one site.

Based upon the reports of manufacturers and importers, EPA will publish an initial inventory of chemical substances. After publication of the initial inventory, these regulations authorize reporting by processors of additional chemical substances. EPA will publish a revised inventory including these substances in 1979.

DATES: These regulations are effective January 1, 1978. Reporting for the initial inventory by manufacturers and importers of chemical substances will begin January 1, 1978 and end May 1, 1978. During the 210 days after publication of the initial inventory in late 1978, processors of chemical substances, and importers of chemical substances as part of mixtures or articles, may report additional chemical substances for a revised inventory. (NOTE: Many of the terms used in these regulations, such as "manufacturer" and "processor" have a special meaning for purposes of these regulations. Persons should read the regulations, especially the definition section carefully, and be sure they understand the special meanings of these terms.)**FOR FURTHER INFORMATION CON-
TACT:**

Mr. John B. Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 202-755-0535. To obtain reporting forms and instructions, call this toll-free number 800-424-9065.

SUPPLEMENTARY INFORMATION: The regulations are promulgated under the authority of subsection 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA.On March 9, 1977, EPA first published in the *FEDERAL REGISTER* (42 FR 13130) proposed inventory reporting regulations to govern reporting of chemical substances required by subsection 8(a) of TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rule-making in the *FEDERAL REGISTER* (42 FR 19298) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances.On April 18, 1977, EPA held a public meeting in Washington, D.C. to provide interested persons an opportunity to comment publicly on the proposed regulations. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). On July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183). EPA is preparing to supplement the Candidate List with at least one additional list of substances. As soon as any supplementary list is available, EPA will publish a notice of availability in the *FEDERAL REGISTER* to enable persons to request copies.

On August 2, 1977, EPA repropoed the inventory reporting regulations. In order to provide interested persons an opportunity to comment publicly on the proposed regulations, EPA held a public meeting in Washington, D.C. on August 24, 1977. A transcript of the public meeting is available for public inspection in the Office of Toxic Substances at the address provided above. Finally, on October 3, 1977, EPA published a supplementary notice to the August 2 proposal. This notice clarified the applicability of the reporting regulations to importers and invited comment on draft reporting forms.

EPA has received over 400 comments in response to the notices of proposed rule-making published on March 9, August 2, and October 3, 1977. These comments were received from trade associations, business firms, environmental organizations, labor unions, state and federal agencies and others. Appendix A of this notice summarizes and responds to the significant issues raised in these comments. The major issues that were resolved in promulgation of these final regulations are discussed below.

Appendix B of these regulations includes copies of the reporting forms for these regulations. These forms are published here as samples of the official forms which will be available from EPA. These forms may not be used for reporting. The official forms, which will be distributed to persons included on EPA's mailing list, each has a unique identifying number for purposes of processing.

**AUTHORITY, PURPOSE AND SCOPE OF THE
REGULATIONS**

These regulations are promulgated pursuant to the authority of section 8(a)

of TSCA. They accomplish two of the purposes contained in that section of the Act. In the first place, in accordance with section 8(a) (1) of the Act, they require reporting for compilation of the inventory of chemical substances manufactured or processed for a commercial purpose in the United States. The Administrator is required to compile and publish an inventory of chemical substances under section 8(b) of the Act. In the second place, under the authority of TSCA section 8(a) (1) (A), these regulations require reporting of production and site information on chemical substances, which is reasonably necessary for establishing a profile of the chemical industry, monitoring chemical substances in the environment, and setting Agency priorities for implementing other provisions of TSCA.

In the interest of accomplishing these objectives, § 710.3(a) requires any person who manufactured or imported chemical substances during calendar year 1977 to report concerning all such substances if (a) thirty percent or more of the weight of the products consists of products of the types described under Standard Industrial Classification (SIC) groups 28 or 2911, or (b) if the total pounds of reportable chemical substances manufactured or imported equals one million pounds or more. In addition, any person who manufactured at a site or imported a chemical substance in 100,000 pound quantities or greater during calendar year 1977 must report concerning that chemical substance.

By directing the reporting requirements to those persons who are significantly engaged in manufacturing chemical substances, EPA will create a profile of the chemical industry useful in future implementation of TSCA. As a minimum, the Agency will know the site of manufacture of all chemicals manufactured in quantities greater than 100,000 pounds. Moreover, for every plant site substantially engaged in producing chemical substances or chemical products for commercial purposes, EPA will know the identities of the substances manufactured there and the relative quantities in which they are produced.

As discussed further in the response to comments (Appendix A), EPA desires to minimize duplicative reporting to the extent consistent with its needs in implementing TSCA. Manufacturers and importers who do not meet the criteria for required reporting do not need to report individually. Instead, they may report through a trade association or rely upon another manufacturer or an importer to report the substances for inclusion on the inventory. Further, in the interest of minimizing duplicative reporting, persons who are processors of a chemical substance they neither manufacture nor import are not subject to the initial reporting requirements. Persons who process or use chemical substances for commercial purposes may report those chemical substances not included in the initial inventory during a special reporting period. In addition, persons who im-

port chemical substances as a part of a mixture or article may report during the special reporting period. EPA expects to publish a revised inventory based on these additional reports sometime in fall 1979.

SMALL MANUFACTURER

As provided in TSCA section 8(a) and discussed in the preamble to the August 2 proposal, EPA may require "small manufacturers" to submit only information necessary for compilation of the inventory or concerning a chemical substance which is subject to a proposed rule or order under TSCA section 4, 5 or 6 or court action under section 5 or 7. At this time, any person who is required to report and who is a small manufacturer is only required to submit information required for compilation of the inventory. Accordingly, any "small manufacturer" need only identify chemical substances and report certain limited information required for purposes of the inventory. Small manufacturers are exempt from reporting production volumes and, if a small manufacturer has more than one plant site, he need not separately report for each site. Since these regulations define "manufacture" to include "import," the provision applies equally to "small importers."

The definition of "small manufacturer or importer" proposed in August has been revised to exempt from these additional reporting requirements those manufacturers and importers with total sales of less than \$5 million. This exemption, however, does not apply with respect to any chemical substance produced by a manufacturer at one site or imported in quantities equal to or greater than 100,000 pounds during calendar year 1977. Accordingly, no manufacturer will be considered a "small manufacturer or importer" with respect to any chemical substance manufactured at one site or imported in quantities over 100,000 pounds.

In deciding how to define "small manufacturer or importer," EPA considered both the relative burden to manufacturers and importers to submit additional information and the value of that information to EPA and other federal agencies. Under this definition, the total cost of reporting for the inventory for the marginal small firm, in most cases, will be about 1 percent of profits. While the firms exempted under this definition represent nearly 80 percent of chemical firms, they account for only 4 percent of sales of chemical substances and only 6 percent of employment in SIC groups 28 and 2911.

In the interest of creating a data base that is at least complete with respect to the volumes of those chemical substances produced in substantial quantities, this definition does not exempt any manufacturer or importer from reporting the volumes of individual substances produced in quantities of over 100,000 pounds during calendar year 1977. Reporting production volume will involve simply providing the digit that is associated with a broad range (e.g., "4" is for production between 1 million and 10 million pounds),

as provided in the table at § 710.5(d) (4). Since the manufacturer or importer will already be reporting the names of substances, the additional burden of supplying production information in terms of large ranges should be minimal, especially for substances produced in significant quantities.

REPORTING SCHEDULE AND ENFORCEMENT

These regulations provide for publication of an initial inventory based on reporting by manufacturers and importers of chemical substances, followed by publication of a revised inventory based on reporting by processors of chemical substances and importers of chemical substances as part of mixtures and articles. Reporting for the initial inventory will begin on January 1, 1978, and end May 1, 1978. Manufacturers and importers of chemical substances must report, as provided in § 710.3(a), during this first reporting period. Processors are only subject to the second reporting period which will begin after publication of the initial inventory and end 210 days later.

Thirty days after publication of the initial inventory, premanufacture notification will begin. After that date, any person who intends to manufacture or import (in bulk) a chemical substance not included on the inventory must submit premanufacture notice under section 5 (a) (1) (A). Processors and users of a chemical substance for a commercial purpose, and importers of a chemical substance as a part of a mixture or article will be able to supplement the initial inventory during the second reporting period, as provided in § 710.3(b).

TSCA section 15(1) makes it unlawful for any person to fail or refuse to comply with the premanufacture notification requirements of section 5. TSCA section 15(2) makes it unlawful for a person to use for a commercial purpose any substance which he had reason to know was manufactured in violation of section 5. Sections 15(1) and 15(2) as they relate to section 5(a) (1) (A) will not be applied to persons who process or use for a commercial purpose chemical substances not on the inventory or who import chemical substances as a part of a mixture until after publication of the revised inventory. By reporting any chemical substance, not included on the initial inventory during the second reporting period, these persons will be able to protect themselves from prosecution under section 15(2) with respect to the requirements of section 5(a) (1) (A) of TSCA. Importers of a chemical substance as part of a mixture or article will not be subject to premanufacture notification requirements for "new" chemical substances until 30 days after publication of the revised inventory. Under these reporting requirements, persons who import chemical substances as part of articles do not have to report concerning those chemical substances for the initial inventory. EPA is still considering whether importers of certain chemical substances as part of articles will be subject to premanufacture notification requirements under section 5(a) (1) (A).

EPA will address this issue prior to publication of the initial inventory. Refer to comments 18 to 23 for further clarification of these issues concerning importers of chemical substances.

Finally, EPA recognizes that it is inevitable, considering the large volume of information to be compiled and transmitted, that there may be some unintentional clerical errors in reporting. Accordingly, the note in § 710.1(b) of these regulations provides that EPA does not intend to focus its enforcement efforts on reporting violations that are clerical in nature. Instead, EPA will give priority to bringing actions against persons who (1) report false information, (2) report for inclusion on the inventory chemical substances which are excluded under section 710.4(c) of these regulations, (3) fail to report, or (4) fail to maintain records documenting reported information.

CONFIDENTIALITY

As discussed in the preamble to the August proposal, there is an apparent conflict between section 14 and sections 8(b) and 5(a) of TSCA with respect to the inclusion of the identities of certain chemical substances on the inventory. Section 8(b) requires EPA to publish a list of "each chemical substance which is manufactured or processed in the United States. Such list shall include each chemical substance which any person reports, under section 5 or subsection (a) of this section, is manufactured or processed in the United States." (emphasis added) The list has two purposes, to inform the public concerning which chemical substances are manufactured or processed for a commercial purpose and to which the public may be exposed, and to define what constitutes a "new chemical substances" for purposes of premanufacture notification requirements under section 5(a). However, section 14 states that any information reported to EPA under TSCA that is exempt from disclosure under the Freedom of Information Act fourth exemption (5 U.S.C. 552(b) (4)) may not be disclosed except in specific circumstances set out in section 14 (a) and (b).

In the absence of the requirements of section 8(b) and 5(a), EPA would publish an inventory that would not include the identities of specific chemical substances for which the fact that the particular substance is manufactured or processed for commercial purposes is confidential. In the absence of the requirements of section 14, EPA would publish a list of all chemical substances manufactured or processed for commercial purposes. Since the term manufacture includes "to import", this discussion and the regulations apply equally to imported chemical substances.

Having no explicit statutory guidance about how to resolve this conflict, EPA has attempted to balance the concerns of section 14 with those of sections 8(b) and 5(a). EPA believes that Congress did not intend manufacturers to be required to furnish EPA premanufacture notification on existing chemical substances whose identities for purposes of the in-

ventory have been claimed as trade secret. EPA believes that Congress did intend EPA to preserve confidentiality to the maximum extent practicable without impairing administration of TSCA. Accordingly, EPA has developed the approach set forth in § 710.7, and explained in greater detail in Appendix A, Response to Significant Comments. The approach balances confidentiality under section 14 with the regulatory scheme of sections 8(b) and 5(a). This approach will be used for the submission of confidential identities for the inventory now under section 8(a) and subsequently under section 5(a)(1)(A). Should the approach fail to achieve its stated purposes, EPA will re-examine the approach and consider alternatives.

EPA will allow manufacturers, importers and processors to claim as confidential the fact that a particular chemical substance is manufactured or processed in the United States for commercial purposes. The manufacturer or processor making such a claim must provide certain information and agree to certain provisions specified in § 710.7(e) of these regulations. EPA will make a final determination concerning entitlement to confidentiality, in accordance with EPA's procedures for handling confidentiality of business information in 40 CFR Part 2, Subpart B (41 FR 36906, September 1, 1976). If EPA determines that the fact the particular chemical substance is manufactured or processed in the United States for commercial purposes is confidential, EPA will not place the specific chemical identity on the published inventory. Instead, EPA will publish a generic chemical name in an appendix to the inventory.

The generic chemical name will inform the public of at least the generic types of confidential chemical substances manufactured or processed for a commercial purpose in the United States. Further, the generic name will be helpful to manufacturers who consult the appendix to the inventory to determine whether they must submit premanufacture notification under section 5(a)(1)(A) for a proposed "new" chemical substance. The generic name will alert them to the possibility that the proposed "new" chemical substance may be included on the inventory under that name. The generic name will not establish a category of chemical substances for purposes of the inventory and premanufacture notification requirements.

EPA wants to avoid the anti-competitive impacts which may arise if new entrants into an existing market were required to give premanufacture notification while the existing manufacturer who claimed the identity of the chemical substance as confidential was able to continue to manufacture it. If a manufacturer is required to give premanufacture notification on a chemical substance, he cannot manufacture the substance for at least the 90-day notice period. This delay may be considerably longer if a testing rule under section 4 requires the manufacturer to develop and submit certain test data. EPA is also

interested in distinguishing a "fishing expedition" by a competitor from a *bona fide* inquiry concerning the identities of confidential chemical substances on the inventory.

Accordingly, § 710.7(g) permits an inquiring manufacturer to submit certain information to establish his *bona fide* intent to manufacture the chemical substance. A manufacturer is not required to establish this intent; he can simply submit a premanufacture notification. If a manufacturer establishes *bona fide* intent to manufacture a chemical substance, EPA will tell the inquiring manufacturer whether the chemical substance is included on the inventory as a confidential identity, and therefore, whether he must submit premanufacture notification under TSCA section 5(a)(1)(A). The submitter who claimed that the specific chemical identity should not appear on the inventory will be required by § 710.7(e)(2) to agree to have available and furnish to EPA upon request certain identifying information on the chemical substance and agree that EPA may disclose to a person with a *bona fide* intent to manufacture the substance whether the particular chemical substance is included on the inventory. Failure to furnish this information to EPA upon request will be construed as a waiver of the claim of confidentiality, and the specific identity will be placed on the inventory. The Agency believes that this resolution of the conflict between sections 5(a), 8(b), and 14 of the statute balances the equities and interests of all parties.

There are several other issues concerning confidentiality that have been raised by these regulations. These issues and further elaboration of the above approach are discussed in Appendix A, Significant Comments and Responses.

DEFINITIONS

EPA wishes to emphasize that the terms used in these regulations may not be wholly consistent with the ordinary usage of such terms. For example, the term "manufacturer" includes importers. As used in these regulations, the terms "manufacturer" and "processor" may both apply to a person who normally would consider himself one or the other. "Intermediate" refers only to those intermediates which are isolated or removed from the equipment in which they are manufactured. Persons should be sure they understand the special meanings of the terms used for purposes of these regulations.

OFFICIAL RECORD OF RULEMAKING

TSCA section 19(a)(3) defines the term "rulemaking record" for the purposes of judicial review of a section 8(a) regulation as (1) the rule being reviewed, (2) any written submission of interested parties respecting the promulgation of such rule and (3) any other information which the Administrator considers to be relevant to such rule and which the Administrator identified on or before the date of the promulgation of such rule, in a notice published in the FEDERAL REGISTER.

Accordingly, TSCA requires the Agency to publish in the FEDERAL REGISTER the list of documents that constitute the record of this rulemaking. Public comments are exempt from FEDERAL REGISTER listing under section 19(a)(3) and have not been listed. A full listing of the public comments is available on request from the Record and Hearing Clerk. In addition, those documents listed below as part of this rulemaking record are available at the Office of the Record and Hearing Clerk in the Office of Toxic Substances.

The factual and policy considerations that are the basis of this rule were published in the preambles to the March 9 and August 2, 1977 proposed rules and October 3, 1977 supplemental notice. In response to public comment, EPA has prepared a document analyzing the impacts of these regulations which the Administrator hereby identifies under TSCA section 19(a)(3)(E) as part of the record of this rulemaking. This document surveys information generally available to the public. It is entitled, "Analysis of Options for Definition of Small Business and Estimated Cost of the Initial Section 8(a) Reporting Requirements," prepared by Arthur D. Little, Inc., Cambridge, Massachusetts, contract number 68-01-4381 (November 1977).

During development of this rule, EPA has conducted two public meetings and several informal meetings attended by interested members of the public. Transcripts of the three public meetings and minutes of several informal meetings are hereby included under section 19(a)(3)(e) as part of this rulemaking.

1. Transcript of public meeting on TSCA Inventory Reporting Regulations as proposed March 9, 1977—(April 18, 1977).

2. Transcript of public meeting on TSCA Inventory Reporting Regulations, as proposed August 2, 1977—August 24, 1977).

Informal meetings were held with interested members of industry, labor, and environmental groups on the following dates. Minutes of these meetings are included in the record.

December 13, 1976	May 6, 1977
December 21, 1976	May 17, 1977
January 6, 1977	June 9, 1977
January 7, 1977	August 4, 1977
January 19, 1977	August 18, 1977
April 14, 1977	September 30, 1977
April 21, 1977	October 6, 1977
April 27, 1977	October 31, 1977

Transcripts of the informal meetings held May 6 (with the American Importers Association) and May 17 (concerning confidentiality) are also included in the record.

In addition, during the development of these rules, Agency staff members had phone conversations with interested members of the public. Phone conversations relevant to this rulemaking are included in the record of this rulemaking. A listing of these materials is available upon request from the Record and Hearing Clerk.

EFFECTIVE DATE

These regulations shall take effect on January 1, 1978. In accordance with 5 U.S.C. 553(d)(3), the Administrator finds for good cause that the effective date of these regulations will not be postponed until 30 days after publication in the FEDERAL REGISTER. TSCA section 8(b) provides that a chemical substance may be included on the inventory only if it was manufactured or processed within three years before the effective date of these regulations. If these regulations are effective on January 1, 1978, any chemical substance manufactured or processed for a commercial purpose since January 1, 1975 may be reported for the inventory. The January 1, 1975 date has been relied on by the industry in preparing for reporting under these regulations. Any greater delay in the effectiveness of these regulations would interfere with orderly and timely reporting for the inventory.

ECONOMIC IMPACT ANALYSIS STATEMENT

EPA has determined that the regulation does not require the compilation of an Economic Impact Analysis Statement as required by Executive Order 11821. This determination is based on the cost estimate prepared by Arthur D. Little, Inc., as part of their report, "Analysis of Options for Definition of Small Business and Estimated Cost of the Initial Section 8(a) Reporting Requirements," (November 1977), which is part of the rulemaking record. The total cost to industry of complying with the requirements of this regulation does not exceed \$15 million. Accordingly, EPA has not performed an Economic Impact Analysis because the cost does not exceed the criteria for a major Agency action.

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement Under Executive Order 11821 and OMB Circular A-107.

Dated: December 12, 1977.

DOUGLAS COSTLE,
Administrator.

Part 710 is established to read as follows:

- Sec.
710.1 Scope and compliance.
710.2 Definitions.
710.3 Applicability: Reporting for the initial and revised inventory.
710.4 Scope of the inventory.
710.5 How to report for the inventory.
710.6 When to report.
710.7 Confidentiality.
710.8 Effective date.

AUTHORITY: Subsection 8(a), Toxic Substances Control Act (TSCA) (90 Stat. 2003, (15 U.S.C. 2607(a))).

§ 710.1 Scope and compliance.

(a) This Part establishes regulations governing reporting by certain persons who manufacture, import, or process chemical substances for commercial purposes under section 8(a) of the Toxic Substances Control Act (15 U.S.C. 2607 (a)). Section 8(a) authorizes the Admin-

istrator to require reporting of information necessary for administration of the Act and requires EPA to issue regulations for the purpose of compiling an inventory of chemical substances manufactured or processed for a commercial purpose, as required by section 8(b) of the Act. Following an initial reporting period, EPA will publish an initial inventory of chemical substances manufactured or imported for commercial purposes. After a supplemental reporting period, EPA will publish a revised inventory including those additional chemical substances processed or used for commercial purposes or imported for commercial purposes as a part of a mixture or article. Further, in accordance with section 8(b), EPA periodically will amend the inventory to include new chemical substances which are manufactured or imported for a commercial purpose and reported under section 5(a)(1) of the Act. EPA also will revise the categories of chemical substances and make other amendments as appropriate.

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under these reporting regulations. In addition, section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by these regulations. Section 16 provides that any person who violates a provision of section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. Pursuant to section 17, the Government may seek judicial relief to compel submission of section 8(a) information and to otherwise restrain any violation of section 15.

NOTE.—As a matter of traditional Agency policy, EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting.

(c) Each person who reports under these regulations shall maintain records that document information reported under these regulations and, in accordance with the Act, permit access to, and the copying of such records by EPA officials.

§ 710.2 Definitions.

For the purposes of this Part: (a) The following terms shall have the meaning contained in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 et seq., and the regulations issued under such Act: "cosmetic," "device," "drug," "food," and "food additive." In addition, the term "food" includes poultry and poultry products, as defined in the Poultry Products Inspection Act, 21 U.S.C. 453 et seq.; meats and meat food products, as defined in the Federal Meat Inspection Act, 21 U.S.C. 60 et seq.; and eggs and egg products, as defined in the Egg Products Inspection Act, 21 U.S.C. 1033 et seq.

(b) The term "pesticide" shall have the meaning contained in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq., and the regulations issued thereunder.

(c) The following terms shall have the meaning contained in the Atomic Energy Act of 1954, 42 U.S.C. 2014 et seq., and the regulations issued thereunder: "by-

product material," "source material," and "special nuclear material."

(d) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

(e) "Administrator" means the Administrator of the U.S. Environmental Protection Agency, any employee or authorized representative of the Agency to whom the Administrator may either herein or by order delegate his authority to carry out his functions, or any other person who shall by operation of law be authorized to carry out such functions.

(f) An "article" is a manufactured item (1) which is formed to a specific shape or design during manufacture, (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 710.4 (d)(5); except that fluids and particles are not considered articles regardless of shape or design.

(g) "Byproduct" means a chemical substance produced without separate commercial intent during the manufacture or processing of another chemical substance(s) or mixture(s).

(h) "Chemical substance" means any organic or inorganic substance of a particular molecular identity, including any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature, and any chemical element or uncombined radical; except that "chemical substance" does not include:

(1) Any mixture,
(2) Any pesticide when manufactured, processed, or distributed in commerce for use as a pesticide,

(3) Tobacco or any tobacco product, but not including any derivative products,

(4) Any source material, special nuclear material, or byproduct material,

(5) Any pistol, firearm, revolver, shells, and cartridges, and

(6) Any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, food additive, drug, cosmetic, or device.

(i) "Commerce" means trade, traffic, transportation, or other commerce (1) between a place in a State and any place outside of such State, or (2) which affects trade, traffic, transportation, or commerce described in clause (1).

(j) "Distribute in commerce" and "distribution in commerce" when used to describe an action taken with respect to a chemical substance or mixture or article containing a substance or mixture, mean to sell or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce.

(k) "EPA" means the U.S. Environmental Protection Agency.

(l) "Importer" means any person who imports any chemical substance or any chemical substance as part of a mixture or article into the customs territory of the U.S. and includes: (1) The person primarily liable for the payment of any duties on the merchandise, or (2) an authorized agent acting on his behalf (as defined in 19 CFR 1.11).

(m) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(n) "Intermediate" means any chemical substance (1) which is intentionally removed from the equipment in which it is manufactured, and (2) which either is consumed in whole or in part in chemical reaction(s) used for the intentional manufacture of other chemical substance(s) or mixture(s), or is intentionally present for the purpose of altering the rate of such chemical reaction(s).

NOTE.—The "equipment in which it was manufactured" includes the reaction vessel in which the chemical substance was manufactured and other equipment which is strictly ancillary to the reaction vessel, and any other equipment through which the chemical substance may flow during a continuous flow process, but does not include tanks or other vessels in which the chemical substance is stored after its manufacture.

(o) "Manufacture" means to produce or manufacture in the United States or import into the customs territory of the United States.

(p) "Manufacture or import for commercial purposes" means to manufacture or import:

- (1) For distribution in commerce, including for test marketing purposes, or
- (2) For use by the manufacturer, including for use as an intermediate.

(q) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined and if, after the effective date of premanufacture notification requirements, none of the chemical substances comprising the combination is a new chemical substance, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water.

(r) "New chemical substance" means any chemical substance which is not included in the inventory compiled and published under subsection 8(b) of the Act.

(s) "Person" means any natural or juridical person including any individual, corporation, partnership, or association, any State or political subdivision thereof, or any municipality, any interstate body and any department,

agency, or instrumentality of the Federal government.

(t) "Process" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce (1) in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or (2) as part of a mixture or article containing the chemical substance or mixture.

(u) "Process for commercial purposes" means to process (1) for distribution in commerce, including for test marketing purposes, or (2) for use as an intermediate.

(v) "Processor" means any person who processes a chemical substance or mixture.

(w) "Site" means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site. For the purposes of imported chemical substances, the site shall be the business address of the importer.

(x) "Small manufacturer or importer" means a manufacturer or importer whose total annual sales are less than \$5,000,000, based upon the manufacturer's or importer's latest complete fiscal year as of January 1, 1978, except that no manufacturer or importer is a "small manufacturer or importer" with respect to any chemical substance which such person manufactured at one site or imported in quantities greater than 100,000 pounds during calendar year 1977. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

NOTE.—The purpose of the exception to the definition is to ensure that manufacturers and importers report production volumes for all chemical substances which they manufactured at one site or imported in quantities equal to or greater than 100,000 pounds during calendar year 1977.

(y) "Small quantities for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including any such research or analysis for the development of a product" (hereinafter sometimes shortened to "small quantities for research and development") means quantities of a chemical substance manufactured, imported, or processed or proposed to be manufactured, imported, or processed that (1) are no greater than reasonably necessary for such purposes and (2) after the publication of the revised inventory, are used by, or directly under the supervision of, a technically qualified individual(s).

NOTE.—Any chemical substances manufactured, imported or processed in quantities of less than 1,000 pounds annually shall be presumed to be manufactured, imported, or

processed for research and development purposes. No person may report for the inventory any chemical substance in such quantities unless that person can certify that the substance was not manufactured, imported, or processed solely in small quantities for research and development, as defined in this section.

(z) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

(aa) "Technically qualified individual" means a person (1) who because of his education, training, or experience, or a combination of these factors, is capable of appreciating the health and environmental risks associated with the chemical substance which is used under his supervision, (2) who is responsible for enforcing appropriated methods of conducting scientific experimentation, analysis, or chemical research in order to minimize such risks, and (3) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substance as may be appropriate or required within the scope of conducting the research and development activity. The responsibilities in clause (3) of this paragraph may be delegated to another individual, or other individuals, as long as each meets the criteria in clause (1) of this paragraph.

(bb) "Test marketing" means the distribution in commerce of no more than a predetermined amount of a chemical substance, mixture, or article containing that chemical substance or mixture, by a manufacturer or processor to no more than a defined number of potential customers to explore market capability in a competitive situation during a predetermined testing period prior to the broader distribution of that chemical substance, mixture or article in commerce.

(cc) "United States," when used in the geographic sense, means all of the States, territories, and possessions of the United States.

§ 710.3 Applicability; Reporting for the initial inventory and revised inventory: Who must report; who should report.

Based on reports from manufacturers and some importers of chemical substances, EPA will compile an initial inventory of chemical substances manufactured for commercial purposes. Paragraph (a) of this section identifies who must report for this initial inventory and who should report. After publication of the initial inventory, EPA will compile a revised inventory of chemical substances manufactured or processed for a commercial purpose based on reports from processors of chemical substances, and from importers of chemical substances as a part of mixtures or articles. Paragraph (b) of this section identifies who may report for this revised inventory. Paragraph (c) of this section identifies

the persons not subject to the initial inventory.

(a) *The initial inventory*—(1) *Domestic manufacturers who must report concerning chemical substances.* Any person who manufactured a chemical substance(s) in the United States for a commercial purpose during calendar year 1977 must report concerning:

(i) All chemical substances which that person manufactured in the United States during calendar year 1977 at each site for which:

(A) Thirty percent or more of the weight of the products distributed from that site consists of products of the types described under Standard Industrial Classification (SIC) Group 28 or 2911, or

(B) The total pounds of reportable chemical substances manufactured at that site equals one million pounds or more; and

(ii) Any chemical substance not reported under paragraph (a)(1)(i) of this section that was manufactured at a site during calendar year 1977 in quantities equal to or greater than 100,000 pounds.

NOTE.—Any person who is a "small manufacturer," as defined in § 710.2, and who has more than one site, is exempt from separately reporting the chemical substances manufactured at each site.

(2) *Importers who must report concerning chemical substances.* Any person who imported a chemical substance into the United States for a commercial purpose during calendar year 1977 must report concerning:

(i) All chemical substances which that person imported into the United States during calendar year 1977 if:

(A) Thirty percent or more of the weight of the products imported consists of products of the types described under Standard Industrial Classification (SIC) Group 28 or 2911, or

(B) The total pounds of reportable chemical substances imported equals one million pounds or more; and

(ii) Any chemical substance not reported under paragraph (a)(2)(i) of this section that was imported during calendar year 1977 in quantities equal to or greater than 100,000 pounds.

NOTE.—These reporting requirements include all chemical substances imported in bulk form, including in cans, bottles, drums, barrels, packages, tanks, bags and other containers, but do not include chemical substances imported as part of mixtures or articles.

(3) *Other manufacturers and importers who should report chemical substances.* (i) In order to ensure that a chemical substance is included in the initial inventory, any person who manufactures or imports, or who has manufactured or imported a chemical substance (including the importation of a chemical substance as part of a mixture or an article) for a commercial purpose since January 1, 1975, may report concerning that chemical substance.

(ii) Any person permitted to report under paragraph (a)(3) of this section may either report individually or, in

accordance with § 710.5(f), authorize a trade association or other agent to report on his behalf.

(b) *Revised inventory.* (1) During the reporting period for the revised inventory (§ 710.6(c)), a person may report concerning a chemical substance which was not included in the initial inventory if:

(i) The person has processed or used the chemical substance (including use in the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975; or

(ii) The person has imported the chemical substance as part of a mixture or article for a commercial purpose since January 1, 1975.

(2) Any person permitted to report under paragraph (b) of this section either may report individually or, in accordance with § 710.5(f), may authorize a trade association or other agent to report on his behalf.

NOTE.—The premanufacture notification requirements of section 5(a)(1)(A) of the Act for manufacturers of new chemical substances and importers of new chemical substances in bulk will begin 30 days after the publication of the initial inventory and will apply to all chemical substances not included in the initial inventory. The premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances as part of a mixture until 30 days after publication of the revised inventory. In addition, section 15(2) of the Act as it relates to section 5(a)(1)(A) will not be applied to persons who process or use for a commercial purpose chemical substances not on the inventory until after publication of the revised inventory.

(c) *Persons not subject to the initial inventory.* Persons who have only processed or used a chemical substance for a commercial purpose are not subject to the initial inventory requirements.

§ 710.4 Scope of the inventory.

(a) *Chemical substances subject to these regulations.* Only chemical substances which are manufactured, imported, or processed "for a commercial purpose," as defined in § 710.2, are subject to these regulations.

(b) *Naturally occurring chemical substances automatically included.* Any chemical substance which is naturally occurring and (1) which is (i) unprocessed or (ii) processed only by manual, mechanical, or gravitational means; by dissolution in water; by flotation; or by heating solely to remove water; or

(2) which is extracted from air by any means, shall automatically be included in the inventory under the category "Naturally Occurring Chemical Substances." Examples of such substances are: raw agricultural commodities; water, air, natural gas, and crude oil; and rocks, ores, and minerals.

(c) *Substances excluded by definition or section 8 (b) of TSCA.* The following substances are excluded from the inventory:

(1) Any substance which is not considered a "chemical substance" as provided in subsection 3(2)(B) of the Act

and in the definition of "chemical substance" in § 710.2(h);

(2) Any mixture as defined in § 710.2(q);

NOTE.—A chemical substance that is manufactured as part of a mixture is subject to these reporting regulations. This exclusion applies only to the mixture and not to the chemical substances of which the mixture is comprised. The term "mixture" includes alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(3) Any chemical substance which is manufactured, imported, or processed solely in small quantities for research and development, as defined in § 710.2(y); and

(4) Any chemical substance not manufactured, processed or imported for a commercial purpose since January 1, 1975.

(d) *Chemical substances excluded from the inventory.* The following chemical substances are excluded from the inventory. Although they are considered to be manufactured or processed for a commercial purpose for the purpose of section 8 of the Act, they are not manufactured or processed for distribution in commerce as chemical substances *per se* and have no commercial purpose separate from the substance, mixture, or article of which they may be a part.

NOTE.—In addition, chemical substances excluded here will not be subject to premanufacture notification under section 5 of the Act.

(1) Any impurity.

(2) Any byproduct which has no commercial purpose.

NOTE.—A byproduct which has commercial value only to municipal or private organizations who (i) burn it as a fuel, (ii) dispose of it as a waste, including in a landfill or for enriching soil, or (iii) extract component chemical substances which have commercial value, may be reported for the inventory, but will not be subject to premanufacturing notification under section 5 of the Act if not included.

(3) Any chemical substance which results from a chemical reaction that occurs incidental to exposure of another chemical substance, mixture, or article to environmental factors such as air, moisture, microbial organisms, or sunlight.

(4) Any chemical substance which results from a chemical reaction that occurs incidental to storage of another chemical substance, mixture, or article.

(5) Any chemical substance which results from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleansers or other housekeeping products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares, and which is not itself manufactured for distribution in commerce or for use as an intermediate.

(6) Any chemical substance which results from a chemical reaction that occurs upon use of curable plastic or rubber molding compounds, inks, drying oils, metal finishing compounds, adhesives, or paints; or other chemical

substances formed during manufacture of an article destined for the marketplace without further chemical change of the chemical substance except for those chemical changes that may occur as described elsewhere in this § 710.4(d).

(7) Any chemical substance which results from a chemical reaction that occurs when (i) a stabilizer, colorant, odorant, antioxidant, filler, solvent, carrier, surfactant, plasticizer, corrosion inhibitor, antifoamer or de-foamer, dispersant, precipitation inhibitor, binder, emulsifier, de-emulsifier, dewatering agent, agglomerating agent, adhesion promoter, flow modifier, pH neutralizer, sequesterant, coagulant, flocculant, fire retardant, lubricant, chelating agent, or quality control reagent functions as intended or (ii) a chemical substance, solely intended to impart a specific physico-chemical characteristic, functions as intended.

(8) Chemical substances which are not intentionally removed from the equipment in which they were manufactured.

NOTE.—See note to definition of "intermediate" at § 710.2(n) for explanation of "equipment in which it was manufactured."

§ 710.5 How to report.

(a) *General instructions.* (1) Except for small manufacturers or small importers, any person who is required to report under § 710.3(a) (1) or (2) shall follow the reporting procedures of paragraphs (b), (c), and (d) of this section.

(2) Any person who reports under § 710.3(a) (3) shall follow the reporting procedures of paragraphs (b), (c), (d) (1) and (d) (3) of this section. In addition, the Agency encourages these persons to report in accordance with paragraphs (d) (2) and (d) (4) of this section. A trade association or other agent may report aggregated production data under paragraph (d) (4) of this section.

(3) Any person who is required to report under § 710.3(a) (1) or (2) and who is a small manufacturer or small importer as defined in § 710.2 shall follow the reporting procedures of paragraphs (b), (c), and (d) (1) and (3) of this section except that such person is exempt from reporting production volume (for quantities less than 100,000 pounds) and site information.

(4) Any person who reports under section 710.3(b) shall follow the reporting procedures of paragraphs (b), (c), and (d) (1) of this section.

(b) *Reporting the identity of a chemical substance.* (1) Any person reporting under these regulations should first read and carefully follow the reporting instructions, "Reporting for the Chemical Substance Inventory," published by and available through EPA.

(2) To report a chemical substance, a person should first consult the TSCA Candidate List of Chemical Substances and any amendment to the Candidate List. For assistance in using the Candidate List, consult the "Guide to the Use of the TSCA Candidate List of Chemical Substances."

(3) All persons required to report except "small manufacturers and importers" must use a separate Form A, B, or C to report chemical substances for each site. Small manufacturers and importers may report several chemical substances manufactured at different sites on one form, as appropriate.

(4) To report a chemical substance found in the Candidate List, or in an amendment to the list, a person must complete, sign, and submit EPA inventory report Form A (EPA Form No. 7710-3A). All forms, A through D, have OMB No. 1585 77011.

(5) To report a chemical substance not found in the Candidate List, or in an amendment to the list, but for which there is a Chemical Abstracts Service (CAS) Registry Number, a person must complete, sign and submit EPA inventory report Form B (EPA Form No. 7710-3B).

(6) To report a chemical substance which is not found in the Candidate List, or in an amendment to the list, and for which there is no known CAS Registry Number, a person must complete, sign, and submit EPA inventory report Form C (EPA Form No. 7710-3C). Persons must describe chemical substances on Form C as specifically as possible, in accordance with the instructions published by EPA, "Reporting for the Chemical Substance Inventory."

(7) To report a chemical substance whose chemical identity is claimed to be confidential, a person must complete, sign, and submit EPA inventory report Form C (EPA Form No. 7710-3C). In addition, he must substantiate the claim that the chemical identity is confidential at the time he submits the form to EPA, in accordance with instructions published in "Reporting for the TSCA Inventory" and section 710.7.

NOTE.—The reporting instructions also describe a reporting Form D (EPA Form No. 7710-3D). This is for additional voluntary reports which may be submitted by any person who manufactures trademarked products comprised of chemical substances and is not a substitute for any of the reports required by these regulations.

(c) *Reporting polymers.* (1) To report a polymer a person must list in the description of the polymer composition at least those monomers used at greater than two percent (by weight) in the manufacture of the polymer.

(2) Those monomers used at two percent (by weight) or less in the manufacture of the polymer may be included as part of the description of the polymer composition.

NOTE.—The "percent (by weight)" of a monomer is the weight of the monomer expressed as a percentage of the weight of the polymeric chemical substance manufactured.

(d) *Reporting other information concerning a chemical substance.* (1) For purposes of the initial inventory, designate whether the person manufactures and/or imports the chemical substance. For purposes of the revised inventory, designate whether the person processes and/or imports the chemical substance.

(2) Report the site(s) at which the person manufactures and/or imports the

chemical substance. The site, as defined in § 710.2(w), for importers is their business address.

(3) Designate whether the person manufactures and processes the chemical substances only within a site and does not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

NOTE.—This requirement does not apply to importers.

(4) Report the amount of the chemical substance which the person manufactured at each site and/or imported during calendar year 1977. For each substance, report the digit (e.g., 0 through 9) which corresponds to the appropriate volume range, according to the following table. Enter "N" in the space provided for production amounts if the person did not manufacture or import the substance during calendar year 1977. Small manufacturers or importers, as defined in § 710.2(x), should enter "X" in the space provided for production amounts of less than 100,000 pounds (45,400 kilograms). If a small manufacturer or importer reports these production amounts, that person shall enter both "X" and the appropriate digits (e.g., X0, X1, or X2). For other production ranges, do not include an "X" (e.g., 3 through 9). Trade associations or other agents should enter "A" in the space provided for production amounts. If trade associations or agents report production volumes, they should enter both "A" and the appropriate digits (e.g., A2 or A6).

(0) Less than 1,000 pounds; Less than 454 kilograms.

(1) 1,000 to 10,000 pounds; 454 to 4,540 kilograms.

(2) 10,000 to 100,000 pounds; 4,540 to 45,400 kilograms.

(3) 100,000 to 1 million pounds; 45,400 to 454,000 kilograms.

(4) 1 million to 10 million pounds; 454,000 to 4,540,000 kilograms.

(5) 10 million to 50 million pounds; 4,540 million to 22.7 million kilograms.

(6) 50 million to 100 million pounds; 22.7 million to 45.4 million kilograms.

(7) 100 million to 500 million pounds; 45.4 million to 227 million kilograms.

(8) 500 million to 1 billion pounds; 227 million to 454 million kilograms.

(9) over 1 billion pounds; over 454 million kilograms.

(A) Trade associations or other agents.

(e) *Importers.* (1) Any importer who reports a chemical substance for the inventory may authorize the foreign supplier of the imported chemical substance(s) to report to EPA on his behalf, if both the foreign supplier and the importer sign the declarations provided on the reporting forms. A foreign supplier may authorize an agent to act in his behalf.

(2) The importer has the ultimate responsibility for reporting all information required by this Part and for the completeness and truthfulness of such information. If certain information is not or cannot be provided by the foreign supplier or his duly authorized agent, it must be provided by the importer.

(f) *Trade associations or other agents.*

(1) A trade association or other agent may report on behalf of any person who is not required to report for the initial inventory under § 710.3 (a)(1) and (a)(2). Accordingly, a trade association or other agent may report on behalf of a manufacturer or importer of a chemical substance who chooses to report under § 710.3(a)(3), or any processor or user of a chemical substance, or any importer of a chemical substance as part of a mixture or an article who chooses to report under § 710.3(b).

(2) For every chemical substance reported by a trade association or other agent under this section, at least one manufacturer, importer or processor must have certified to that agent, and be able to document to EPA, in accordance with § 710.1(c), that the chemical substance was manufactured, imported, or processed for a commercial purpose since January 1, 1975.

§ 710.6 When to report.

(a) All reports for the initial inventory shall be submitted by May 1, 1978.

(b) All reports concerning chemical substances which are manufactured or imported for a commercial purpose for the first time during the period from May 1, 1978 to the effective date of pre-manufacture notification requirements shall be submitted when such manufacturing or importation begins.

(c) All reports for the revised inventory shall be submitted within 210 days after publication of the initial inventory.

§ 710.7 Confidentiality.

(a) A manufacturer, importer, or processor may claim that for a particular chemical substance any or all of the following items of information submitted under this Part are entitled to confidential treatment:

- (1) Company name.
- (2) Site.
- (3) The specific chemical identity.
- (4) Whether the chemical substance is manufactured, imported, or processed.
- (5) Whether the chemical substance is manufactured and processed only within one site and not distributed for commercial purposes outside that site.
- (6) The quantity manufactured, imported, or processed.

(b) Any claims of confidentiality must accompany the information at the time it is submitted to EPA. The claims must appear on the form on which the information is submitted to EPA and in the manner prescribed on the form. In addition, any claims of confidentiality must be substantiated at the time the information is submitted to EPA in the manner specified in the form instructions.

(c) Any information that is covered by a claim made as specified will be disclosed by EPA only to the extent permitted by, and by means of, the procedures set forth in this section and in Part 2 of this Title (41 FR 36902).

(d) If no claim accompanies information at the time it is submitted to EPA, the information may be made public by

EPA without further notice to the submitter. Failure to provide substantiation of any claim asserted on the forms will be considered a waiver of the claim and will result in a determination that the information is not entitled to confidential treatment.

(e)(1) A claim of confidentiality may be asserted concerning the specific chemical identity of a particular chemical substance. This claim may be asserted by any submitter who believes that inclusion of the specific chemical identity on the inventory would reveal the trade secret fact that the particular chemical substance is manufactured or processed for commercial purposes.

(2) If a submitter asserts such a claim the submitter must

(i) Report the specific chemical identity,

(ii) Propose a generic chemical name which is only as generic as necessary to protect the confidential identity of the particular chemical substance,

(iii) Provide a detailed, written substantiation of the claim as specified in the reporting instructions,

(iv) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture the substance (as defined in paragraph (g) of this section) the fact that the particular chemical substance is included in the inventory for purposes of TSCA section 5(a)(1)(A) premanufacture notification, and

(v) Have available, and agree to furnish to EPA upon request, for the particular chemical substance, either an X-ray diffraction pattern (in the case of inorganic substances) or a mass spectrum for the particular chemical substance (in the case of most other substances), a sample of the substance in its purest form, an elemental analysis, any additional or alternative spectra, or other data that may be required to resolve uncertainties with respect to the identity of the substance. Failure to meet any of these five requirements will be considered a waiver of the claim and will result in inclusion of the particular chemical identity on the inventory.

(f)(1) If a submitter asserts that the identity of a particular chemical substance should not be included on the inventory, the submitter has met the five requirements specified in paragraph (e) of this section, and the EPA General Counsel has made a determination, in accordance with Part 2 of this Title that the particular chemical identity should not appear on the inventory because inclusion would disclose a trade secret. EPA will publish a generic chemical name in an appendix to the inventory rather than place the specific chemical identity on the inventory. Publication of a generic name in the appendix does not create a category for purposes of the inventory. Any person proposing to manufacture a substance included in the appendix under a generic name must submit notice under section 5(a)(1)(A) of the Act unless specifically exempted by EPA (see paragraph (g) of this section).

(2) EPA will examine the generic

chemical name proposed by the submitter claiming confidentiality.

(i) If EPA determines that the generic name proposed by the submitter asserting the claim is only as generic as necessary to protect the confidential identity of the particular chemical substance, EPA will place that generic name on the inventory.

(ii) If EPA determines that the generic name proposed by the submitter asserting the claim is more generic than necessary to protect the confidential identity, EPA will ask the submitter to submit further proposed generic names.

(iii) If EPA does not agree with the further proposed generic names, EPA will choose a generic name that EPA determines is only as generic as necessary to protect the confidential identity. EPA will give 30 days notice of this choice to the submitter asserting the claim. After the end of the 30-day period EPA will place the chosen generic name on the inventory.

(g)(1) If the particular chemical substance a person is proposing to manufacture is not included on the inventory by specific name but does fall within one of the generic chemical names in the appendix entitled "Confidential Identities," the person may ask EPA whether the specific substance is included on the inventory. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture the substance.

(2) In order to establish a *bona fide* intent to manufacture the specific chemical substance the person proposing to manufacture the chemical substance must submit to EPA:

(i) A signed statement that that person intends to manufacture the substance for commercial purposes,

(ii) A description of the research and development activities he has conducted to date and the purposes for which the substance will be manufactured,

(iii) An elemental analysis,

(iv) Either an X-ray diffraction pattern (in the case of inorganic substances) or a mass spectrum (in the case of most other substances) of the particular chemical substance,

(v) A sample of the substance in its purest form, if requested, and

(vi) Any additional or alternative spectra, or other data that may be required to resolve uncertainties with respect to the identity of the chemical substance.

(3) (i) Upon receipt of the information specified in paragraph (g)(2) of this section, EPA may require the submitter who asserted the confidentiality claim for a specific chemical substance within the generic name to submit to EPA:

(A) Either an X-ray diffraction pattern or a mass or alternative spectrum for the substance,

(B) An elemental analysis of the substance,

(C) A sample of the substance in its purest form, if requested, and

(D) Any additional spectral or other data that may be required to resolve un-

certainities with respect to the identity of the substance.

(ii) Failure to submit any of the information required by EPA under this paragraph (g) (3) will be construed as a waiver of the submitter's confidentiality claim, and EPA will place the specific chemical identity on the inventory without further notice to the submitter.

(4) EPA will compare the information submitted by the proposed manufacturer under paragraph (g) (2) of this section with the information submitted under paragraph (g) (3) of this section.

(5) If (i) the comparison of the elemental analyses and either the X-ray diffraction patterns or mass or alternative spectra is sufficiently similar to be consistent with a presumption that the chemical substances are the same, and (ii) comparison of any of the other submitted information affirms this presumption, EPA will tell the person proposing to manufacture the particular chemical substance that the particular chemical substance is included on the inventory and, therefore, that premanufacture notification is not required.

(6) If (i) the comparison of either the X-ray diffraction patterns or the mass or alternative spectra is not sufficiently similar to be consistent with a presumption that the chemical substances are the same, and (ii) comparison of the other information affirms this conclusion, EPA will tell the person proposing to manufacture the particular substance that the information submitted does not support a conclusion that the substance is included on the inventory, and, therefore, that premanufacture notification is required.

(7) A disclosure to a person with a bona fide intent to manufacture a particular chemical substance will not be considered a public disclosure.

§ 710.8 Effective date.

These regulations shall take effect on January 1, 1978.

APPENDIX A—SIGNIFICANT COMMENTS AND RESPONSES

Over 400 comments were received in response to the notices of proposed rulemaking published in the FEDERAL REGISTER on March 9, August 2, and October 3, 1977. The following summarizes and responds to the significant issues raised in these comments. Comments which concern problems specific to one particular company were not generally included in these comments. These comments were referred to EPA's Industry Assistance Office for direct reply.

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When To Report. Comments 88-92.

Confidentiality. Comments 93-103.

OVERALL APPROACH TO THESE REPORTING RULES

Comment 1: Reporting under these first reporting rules should not only be for the purpose of compiling the inventory required by section 8(b), but also to establish a base line of information for further regulatory action under TSCA. Failure to gather site, production, use, impurity, byproduct, disposal, and worker exposure information in a comprehensive manner precludes a systematic approach to the regulation of chemicals.

Response: The Administrator agrees, in part, with this comment. The August 2, 1977, reproposal expanded the purpose of these regulations as proposed on March 9, 1977. These final regulations are similar to those proposed on August 2nd.

In deciding the scope of these first section 8(a) reporting requirements, EPA considered not only the interest of compiling an inventory of chemical substances, as required by TSCA section 8(b), but also the need for obtaining sufficient information for monitoring chemical substances in the environment and setting Agency priorities for implementing other provisions of TSCA. The Agency decided that initial reporting requirements should at least establish a profile of the chemical industry, including sites where chemicals are being manufactured and the relative quantities in which they are produced or imported into the United States. With this information, EPA will be able to estimate the potential exposure to chemical substances for control, and preventive actions. For example, plant site information will be useful in identifying possible sources of hazardous chemicals, especially in an emergency. Data on the quantities of chemical substances manufactured for a commercial purpose will enable EPA and other agencies to select substances for priority attention from among the tens of thousands of chemicals in commerce.

The Agency will not be requiring use, impurity, byproduct, disposal, or worker exposure information in these regulations. The Administrator has determined that this information is not now necessary for all chemical substances manufactured for a commercial purpose, and that the additional burden to industry and consequent delay in publication of the inventory would not be justified. EPA intends, under the authority of section 8(a), to require this additional information on a smaller number of chemicals in order to assess their potential risks in depth. These requirements will be directed at manufacturers and processors of the chemical substances to enable the Agency to build a more complete profile on these chemicals which are of concern.

Comment 2: EPA's proposed approach would require unnecessarily burdensome and needlessly duplicative reporting. EPA should compile and publish a list of chemical substances from government, industry, and other sources, and allow manufacturers and trade associations to report any chemical substances not included.

Response: The Administrator disagrees with this comment. The Agency reviewed existing lists of chemical substances and

found them inadequate in several respects. First, many existing lists contain chemical substances which are not eligible for inclusion on the TSCA inventory. Second, in existing lists, many of the entries are in broad categories or use groups (such as "optical brighteners") which would be inappropriate for the purposes of compiling a list of discrete chemical substances manufactured or processed for a commercial purpose in the United States. Third, existing lists would not permit EPA to identify the basic manufacturers of a chemical substance. The purposes of TSCA, accordingly, would not be met if EPA were simply to publish currently available lists as the inventory of chemical substances and permit manufacturers to report any substance not included.

EPA is interested in minimizing the burden of reporting for the inventory. Accordingly, the Agency has published a Candidate List of Chemical Substances which includes those substances we have reason to believe have been manufactured or processed in the United States. For any chemical substance included on the Candidate List, reporting for the inventory is greatly simplified. By FEDERAL REGISTER notice dated April 28, 1977 (42 FR 21639) and July 8, 1977 (42 FR 35183), the Agency announced the availability of the Candidate List in hard copy and computer readable tape. EPA plans to supplement the Candidate List with at least one additional list of substances. EPA will announce the availability of any additional list in the FEDERAL REGISTER. By FEDERAL REGISTER notice dated April 12, 1977 (42 FR 19298) the Agency published a proposed Guide to the Use of the Candidate List. This Guide will be republished with some changes to assist persons reporting for the inventory. This document and any supplement to the Candidate List will be available from EPA at the address listed above.

In a further effort to minimize duplicative reporting to the extent consistent with the needs of the Agency, § 710.5(f) of these final regulations permits all manufacturers or importers not required to report by § 710.3 (a) (1) and (2) to report chemical substances through a trade association or other agent. Further, any person who processes a chemical substance is only subject to the revised inventory. These policies should eliminate a great amount of duplicative reporting.

Comment 3: Manufacturers should be required to report chemical substances manufactured for a commercial purpose by plant site rather than by company headquarters.

Response: The Administrator agrees with this comment. The March 9, 1977 proposal would only have required manufacturers to report chemical substances by company headquarters. As part of the decision to require reporting of information which will give the Administrator a profile of where chemicals are being manufactured, the August 2, 1977 reproposal would require reporting by plant site. These final regulations continue this requirement. The Agency intends to use this information to monitor for potential exposure and identify possible sources of hazardous chemicals in an emergency.

Comment 4: EPA has failed to demonstrate that production volume data are necessary to compile the inventory, and it is unclear how EPA intends to use this additional information. In emergencies, EPA needs to know where a chemical is produced, not the exact quantity. The delay in publishing the inventory is not justified by the information to be gained by requiring more detailed data.

Response: Production volume information is not being required to publish the inventory under section 8(b). This information is

being required under the general authority of section 8(a) of the Act, to require submission of information necessary for administration of TSCA.

EPA intends to use the production volume data to help set priorities for implementing TSCA. In particular, EPA will initiate subsequent phases for reporting on chemical substances selected in part on the basis of their production volume. Section 710.5(d)(4) requires reporting of production in fairly broad ranges. (See comment 6.) Because manufacturers should know generally how much of a chemical substance they manufacture on an annual basis, EPA does not anticipate that this requirement will significantly delay reporting. Combining reporting of production with reporting of chemical substance identities is far more efficient, in terms of time and resources both for EPA and the industry, than requiring separate reporting. Saving many months of additional effort clearly justifies the few months of delay in the publication of the initial inventory.

Comment 5: Production volume data are available elsewhere, notably from trade associations and other governmental agencies. EPA also has authority under Air and Water Acts to gather the data.

Response: The production data available to EPA from other sources are inadequate in several respects. Other government agencies, such as the International Trade Commission, believe they are not permitted, by statute, to disclose confidential production data to EPA. Further, these data are often collected for groups of chemical substances, and not for discrete chemical substances. While EPA has gathered certain data for several hundred chemical substances under its other authorities, these substances represent only a fraction of those EPA anticipates will be reported for the inventory. Only by collecting production information along with the chemical identities as they are reported for the inventory will EPA be assured of having a comprehensive indication of production for these substances.

Comment 6: Several commenters suggested that production volume data should be reported in broad ranges because statistical analysis shows that aggregate totals will provide enough accuracy for EPA to set relative priorities. Others recommended that production volume data should be reported to one or two significant figures or to within a specified percentage.

Response: As provided in § 710.5(d)(4), the Administrator has determined that reporting of production volume in ranges is adequate for the purposes of these regulations. The ranges established by these regulations are in terms of powers of ten, except in the upper volumes where the difference between the lower and upper limits of the ranges would be too great. In subsequent section 8(a) reporting requirements, when the Agency has identified a particular interest in a chemical, the Administrator may request production volume information with greater specificity.

Comment 7: Total production volume information for a company should be required, rather than site specific information.

Response: The Administrator disagrees with this comment. In order to establish an adequate profile of the chemical industry and properly assign agency resources, particularly the agency's regional resources, production information is necessary on a site specific basis.

Comment 8: Production volume information on intermediates, raw materials, and byproducts should not be required.

Response: Section 710.5(d)(4) of these regulations will require reporting of production volume information on intermediates. As discussed in response to comment 87 below, the term "intermediate" has been de-

fined to include only those chemical substances that are intentionally removed from the equipment in which they are manufactured. The Agency expects that a manufacturer will be able to estimate the range of production volume of the intermediates which he isolates in this manner.

Under these regulations, manufacturers are not required to report the identity of purchased raw materials or byproducts which have no commercial value. Accordingly, a manufacturer would not be required to report the production volume of these substances.

Comment 9: EPA should not set its priorities on the basis of production volume alone.

Response: EPA recognizes that priorities under TSCA cannot be set on the basis of any single factor. The production data obtained under these regulations will be only one factor in selecting chemical substances for attention. Production volume information is important because it gives some indication of the potential for human and environmental exposure. Other information such as the toxicity of the substance, its uses, and byproducts will, as appropriate, also be considered in assigning relative priorities to substances for testing and other regulatory actions.

Comment 10: EPA should not require a designation of those chemical substances that are site-limited. This information may be confidential and any use of such a substance for commercial purposes outside the manufacturing site is not necessarily a "significant new use" for the purpose of TSCA section 5(a)(1)(B).

RESPONSE: Section 710.5(d)(3) will require designation of those chemical substances which are manufactured and processed within a site and are not distributed for a commercial purpose outside the site. The information will be used by EPA and other agencies to identify those chemical substances which may have little exposure to the general environment.

Section 710.7 of these regulations recognizes that the fact that a particular chemical substance is "site limited" may be claimed as confidential. If a claim of confidentiality is asserted it will be handled in accordance with the Agency's business confidentiality regulations, 40 CFR Part 2.

EPA has not decided exactly how it will propose to define "significant new use" for the purposes of notification under section 5(a)(1)(B). The comments which we have received are quite extensive on this point and correctly emphasize the various considerations set forth in section 5(a)(2). EPA intends to take into account all these considerations prior to issuing a proposed rule under section 5(a)(2).

Comment 11: Compilation of production volume and site data will be a time-consuming and expensive procedure since many companies will have to consult production batch sheets and inventories. This burden is greatly increased by requiring the reporting of isolatable intermediates.

Response: In preparing the final regulations, EPA has attempted to reduce the burden of reporting to industry while obtaining important information. As discussed in response to comment 6, these regulations would require reporting in fairly broad ranges of the production of chemical substances. Further, as discussed in response to comment 87, EPA has revised its definition of "intermediate" to exclude "isolatable intermediates", or those which "could be isolated," but are not. These amendments should greatly reduce the potential reporting burden to industry. Moreover, the burdens of compiling the production and site information required by these regulations has been considered in establishing the definition of "small manufacturer" under these regula-

tions. As discussed in greater detail in response to comment 24, small manufacturers are not required to submit this information.

Comment 12: Certain industries may find it more convenient to report their chemicals in units other than pounds. Cubic feet for gas, and barrels for petroleum products are two examples. Further, manufacturers should be able to report in metric units.

Response: In order to simplify reporting and to enable EPA to process the information in a timely fashion, it is very important that manufacturers report production volumes according to the ranges established by § 710.5(d)(4). EPA expects manufacturers who normally deal in other units of measurement to be able to convert to the specified ranges. The table of ranges is provided in both pounds and kilograms to facilitate reporting by persons using the metric system. In instances where manufacturers cannot determine the actual weight of a chemical substance, a best estimate should be made.

WHICH PERSONS ARE SUBJECT TO THESE REGULATIONS

Manufacturers

Comment 13: EPA will lose valuable information by not requiring all chemical manufacturers to report for the inventory. There are many chemical manufacturers outside of SIC groups 28 and 2911 and EPA will not be able to locate these potential sources of hazardous chemicals. The Agency does not have the discretion to exempt some chemical manufacturers from the reporting obligation.

Response: The Administrator interprets section 8(a) of the statute as giving EPA broad discretion to determine the manufacturers who shall be subject to any reporting rule.

By directing these reporting requirements to manufacturers substantially engaged in producing chemical products of the types described under SIC 28 or 2911 the Agency is focusing on that segment of the industry which is of primary concern under TSCA. By narrowing the population of manufacturers required to respond from a possible 225,000 establishments who may be engaged in processing chemical substances to approximately 8,400 establishments engaged in manufacturing chemical substances, EPA will dramatically reduce potential duplication of reporting and still create a data base which is comprehensive with respect to principal chemical manufacturers. EPA expects the initial inventory to contain over 95% of the chemical substances manufactured and processed for a commercial purpose in the United States.

In response to this comment, however, in order to increase the reliability of the data base which the Agency will generate, EPA has expanded the category of manufacturers who must report, in two respects. First, § 710.3(a)(1)(i)(B) requires manufacturers who have produced one million or more pounds of a reportable chemical substance(s) at a plant site to report concerning all chemical substances manufactured at that site during 1977. This criterion applies whether or not the manufacturing establishment would be included in SIC Code 28 or 2911. Second § 710.3(a)(1)(ii) requires all manufacturers to report concerning any chemical substance that they manufactured at one plant site in quantities equal to or greater than 100,000 pounds during calendar year 1977.

The Agency, accordingly, will receive reporting on all the chemical substances manufactured at plants included in the chemical and allied products sector of the industry and at the plants of the largest manufacturers in the other sectors. In addition, the data base will include at least all chemical sub-

stances produced in quantities equal to or greater than 100,000 pounds annually at any plant site.

Comment 14: Since any manufacturer whose chemical substance is not included in the initial inventory will be required to comply with the premanufacture notification requirements of section 5(a)(1)(A), manufacturers outside SIC groups 28 and 2911 will still be forced to report their chemicals to ensure that they are included on the inventory. Thus EPA's efforts to reduce duplicative reporting will not be successful.

Response: The Administrator believes that these regulations will reduce duplicative reporting. Those manufacturers who are not required by § 710.3(a)(1) or (2) to report chemical substances have several options for ensuring the chemical substances they manufacture are included on the inventory. First, they can report individually. Second, these manufacturers can rely on their knowledge that another manufacturer is reporting the chemical substance. Or, third, as provided in § 710.5(f), they can ensure that the chemical substances are reported by a trade association or other group. Thus, the inventory reporting burden on these persons will be minimized and the number of reports submitted to the Agency will be greatly reduced.

Comment 15: EPA should clarify by notice in the FEDERAL REGISTER or by direct mailing, exactly who is included in SIC groups 28 and 2911.

Response: The Agency intends by direct mail to notify those persons included on the Dun and Bradstreet list of SIC Code 28 or 2911 manufacturers, as well as others who are included on EPA's mailing list, concerning these reporting regulations. Moreover, EPA has decided for administrative and legal reasons not to rely on the designations of SIC groups that the Bureau of Census assigns to all manufacturers. Instead, § 710.3(a)(1) of these regulations sets forth independent criteria for reporting for these regulations. Manufacturers should be able to determine for themselves whether the reporting requirements are applicable to them. The proposed criteria should encompass at least those manufacturers in SIC groups 28 and 2911, as designated by the Bureau of Census. Any manufacturer meeting the criteria of § 710.3(a)(1) is subject to these regulations regardless of whether he has been assigned to SIC group 28 or 2911 by the Bureau of Census and whether he receives a letter from this Agency.

Comment 16: Trade associations should let non-member firms add to any list of manufactured chemicals.

Response: In allowing trade associations to report, the regulations do not stipulate that the persons for whom the trade associations may report are actual members of that association. Section 710.5(f) of these regulations only requires that for every chemical substance reported by a trade association at least one manufacturer, importer, or processor must have certified to that trade association, and be able to document to EPA, that the chemical substance was manufactured, imported, or processed in accordance with these regulations.

Comment 17: A company which contracts with another company to manufacture a chemical substance for a commercial purpose should be allowed to report that chemical substance for the inventory.

Response: The Administrator agrees with this comment. EPA recognizes that there are companies who contract with other companies to manufacture chemical substances for commercial purposes. The company who actually manufactures the substance is, of course, responsible for reporting any chemical substance manufactured during calendar year 1977, in accordance with § 710.3(a)(1). In addition, the manufacturer may report for

the inventory under § 710.3(a)(3). The company who has contracted for manufacture of the chemical substance may also report for the initial inventory, if he has reason to believe that the manufacturer has no intention of reporting the substance. For example, the manufacturer may no longer be in business or may not have manufactured the substance since January 1, 1977, and does not intend to continue manufacturing the chemical substance. If the contractor reports for the inventory he must be able to certify that the chemical substance was manufactured since January 1, 1975, and provide the address of the manufacturing site.

Importer

Comment 18: Importers and foreign suppliers should be permitted to appoint a mutually agreeable agent to report for the inventory. It is unfair to hold small importers liable for reporting the chemicals manufactured by a large international corporation.

Response: Section 710.5(e) of these regulations provides that an importer required to report chemical substances may authorize a foreign manufacturer, or an agent of a foreign manufacturer, to report on the importer's behalf. Because the jurisdiction of TSCA reaches the importer and not the foreign manufacturer, EPA must hold the importer liable. An importer is free, however, to take whatever legal measures are necessary in contracts with the foreign supplier to protect himself from penalties. Whatever conditions the importer and reporting agent agree to, however, are outside the purview of these regulations.

In addition, the reporting instructions referred to in § 710.5(b), "Reporting for the TSCA Inventory," will provide that importers may report certain information directly to EPA and request a foreign manufacturer or his agent to supply other information. Thus, an importer could arrange that he would send directly to EPA the trade name of the imported chemical substance and the amount imported, and that a foreign manufacturer or his agent would submit the specific chemical identity of the trade name substance. The Agency expects such arrangements to be useful in the event some information is a confidential trade secret.

Comment 19: Standard Industrial Classification (SIC) codes should be used to determine which importers are required to report. EPA should insure that importers are not required to report under § 710.3(a)(1) and should clarify the "site" for importers for the purposes of these regulations.

Response: The Administrator agrees in part with this comment. EPA has revised the final regulations to require reporting by importers concerning all chemical substances imported if (1) thirty percent or more of the weight of the products imported consists of products of the types described under SIC 28 or 2911, or (2) the total pounds of reportable chemical substances imported equals one million or more pounds. In addition, importers must report any chemical substance imported during calendar year 1977 in quantities equal to or greater than 100,000 pounds. These requirements parallel those under § 710.3(a)(1) for domestic manufacturers. An importer, however, is not required to report under § 710.3(a)(1); he is required to report under § 710.3(a)(2).

As defined in § 710.2(w), the business address of an importer will be considered his site for the purposes of these regulations. Importers need not specify the port of entry for importation of a chemical substance.

Comment 20: If EPA allows mixtures which contain substances not on the inventory to be imported, foreign competitors will have an unfair advantage. EPA should require

premanufacture notification of new chemical substances imported as parts of mixtures.

Response: The Administrator agrees with this comment. On October 3, 1977, EPA published in the FEDERAL REGISTER a supplemental notice (42 FR 53804) addressing the applicability of these regulations and premanufacture notification requirements to importers of chemical substances as part of mixtures. Since an importer of a mixture is also importing the component chemical substance in the mixture, such an importer would be subject to the premanufacture notification requirements with respect to all new chemical substances. Accordingly, although importers of chemical substances as part of mixtures are not required to report for compilation of the inventory, they should ensure that the chemical substances they import are included on the inventory. As provided in §§ 710.3(a)(3) and 710.3(b), they may report either during the reporting period for the initial inventory or the reporting period for the revised inventory. And, as provided in § 710.5(f), they may report through a trade association or other agent. The premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances as part of mixtures until 30 days after publication of the revised inventory. At that time, no person will be permitted to import any mixture containing a "new chemical substance" except in accordance with TSCA section 5. Please refer to the October 3, 1977 notice for a discussion of the legal and policy considerations supporting this decision.

Comment 21: Importers of chemical substances as part of articles should not be required to report for the inventory and should not be subject to premanufacture notification.

Response: The Administrator agrees that importers of chemical substances as part of articles should not be required to report for the inventory, and is reviewing whether any importers of articles should be subject to premanufacture notification requirements. Sections 710.3(a)(3) and 710.3(b) provide, however, that importers of a chemical substance as part of an article may report for the initial and revised inventory.

The October 3, 1977 supplemental notice (42 FR 53804) in the FEDERAL REGISTER discussed the applicability of these regulations and premanufacture notification requirements to importers of chemical substances as part of articles. Persons who import articles also "import" the component chemical substances. Thus, as discussed in response to comment 20, the importer could be subject to the premanufacture notification requirements with respect to all new chemical substances comprising the article. However, for reasons discussed in greater detail in the October 3, 1977 notice, the Administrator does not presently intend the premanufacture notification requirements of section 5(a)(1)(A) to be applied to the importation of all articles that contain a new chemical substance. As discussed in response to comment 22, EPA will carefully consider the economic and international ramifications of any premanufacture notification requirements that may be applied to chemical substances imported as part of articles. In the interim, EPA will not consider persons who import chemical substances as part of articles or who process or use such articles to be in violation of section 5(a)(1)(A). If upon re-evaluation, the Administrator determines that these requirements should be applied to importers of chemical substances imported as parts of some or all articles, or to importers of selected chemical substances imported as parts of articles, a proposed notice will be published for further public comment. Such change in policy would be final.

ized before publication of the initial inventory so that any affected parties may report during the reporting period for the revised inventory.

Chemical substances or mixtures which are imported within articles, such as in drums, barrels, or other containers used for purposes of transportation or containment, are considered to be chemical substances imported in bulk and are subject to these reporting requirements. Chemical substances or mixtures will be considered to be imported as a part of an article, if the substance or mixture is not intended to be removed from that article and has no end use or commercial purposes separate from the article of which it is a part. Importers may report these chemical substances but are not required to do so. For example, transformer fluids in transformers, lighter fluids in cigarette lighters, and crankcase oil in automobiles are not intended to be removed from the articles of which they are a part and have no commercial purpose separate from these articles. Accordingly, these chemical substances need not be reported. These same chemical substances, however, if imported in drums, cans, or other containers, must be reported as required by these regulations.

The Agency will exercise its authority to regulate the import of chemical substances which are part of articles (as well as imported in bulk and in mixtures) under section 6 or other authorities of the Act, as necessary to protect against unreasonable risks of injury to health and the environment. This might, for example, include prohibiting, limiting, or, in other ways, restricting the import of such chemical substances.

Comment 22: Importers of chemical substances as part of an article have an unfair competitive advantage over domestic manufacturers because they can introduce new chemical substances into domestic markets without complying with premanufacture notification requirements. This policy should be changed so that substances which are manufactured domestically at a site solely to be included in an article would not be considered commercial substances per se. Thus they would not be reported for the inventory and would not be subject to premanufacture notification.

Response: The Administrator disagrees with this comment. EPA recognizes that the reporting requirements are not identical for importers and domestic manufacturers of chemical substances as part of an article, but EPA has tried to equalize the burdens of complying with these regulations, as directed by the Act. With respect to the requirements for premanufacture notification, EPA will assess the impact of those requirements over the next several months as they are developed.

Under § 710.4(d) of these regulations some chemical substances manufactured as part of an article which have no commercial purpose separate from the article of which they are a part, are excluded from the inventory and premanufacture notification requirements. To exclude from the inventory other chemical substances manufactured for a commercial purpose which are subsequently incorporated in an article would create an unacceptable loophole and not fulfill the purposes of the TSCA inventory. The domestic manufacturer of a chemical substance who also manufactures an article is only required to report the chemical substance(s) he actually manufactures. EPA does not believe that this is an unreasonable burden. If under subsequent regulations the Agency imposes certain requirements on domestic manufacturers of chemical substances which are incorporated as parts of articles, in general the Agency will impose the same require-

ments on importers of those chemical substances.

Comment 23: In developing premanufacture requirements under section 5, EPA should take into account foreign manufacturers whose application for a patent for a new chemical substance with a foreign government may be jeopardized by premanufacture notification under TSCA.

Response: If a foreign government will not award a patent for a chemical substance whose identity has been disclosed, even to another government under a provision such as the premanufacture notification requirements of TSCA, persons should take this into account and apply for the patent prior to the importation of the chemical substance into the United States.

Definition of Small Manufacturer or Importer

Comment 24: The definition of "small manufacturer or importer" proposed by EPA is unduly restrictive and ought to be revised.

Response: The Administrator agrees with this comment. The definition of the term "small manufacturer or importer" at § 710.2 (x) has been revised to mean a "manufacturer or importer whose total annual sales is less than \$5 million, based upon the manufacturer's or importer's latest complete fiscal year as of January 1, 1978, except that no manufacturer or importer is a 'small manufacturer or importer' with respect to any chemical substance which such person manufactured or imported in quantities greater than 100,000 pounds during calendar year 1977."

This definition is different in several respects from the definition of "small manufacturer or importer" which was proposed on August 2, 1977. In the first place, EPA has deleted the criterion based on the number of plant sites. It had been proposed that a manufacturer would be a small manufacturer if he had only one plant site. The Administrator has determined that for the purposes of these regulations, such a criterion would have little meaning. The one plant site criterion had little relation to burden on the small manufacturer. It also provided very little benefit to EPA because very few manufacturers who meet the other criteria will have more than one plant site.

In the second place, whereas the August proposal would have defined as a "small manufacturer or importer" a person with total sales of less than \$100,000, these final regulations consider a "small manufacturer or importer" a person who, in part, has total annual sales of less than \$5 million, based on the manufacturers' or importers' latest fiscal year as of January 1, 1978. The Agency received extensive comments that the \$100,000 figure was unreasonably low, and has agreed that it should be substantially increased.

And, in the third place, these regulations provide that no person is a "small manufacturer or importer" with respect to any chemical substance produced in quantities greater than 100,000 pounds annually. The August proposal had provided that a person would be a small manufacturer if he had no more than 2,000 pounds annual production of a chemical substance. The Agency has established this criterion for the definition of the term "small manufacturer or importer" based on its need for information on chemicals produced in substantial quantities.

It is important to emphasize that in accordance with section 8(a)(3) of TSCA, small manufacturers and importers are not exempt from reporting information necessary for compilation of the inventory. Accordingly, under these regulations, small manufacturers and importers who are required to report (§ 710.3(a)(1) and (2)) must report

at least (1) the identities of the chemical substances, and (2) whether they manufacture, process, or import the substance. Reporting of the chemical identities is necessary to publish the list required under section 8(b). In order to enforce these inventory reporting regulations, manufacturers, and importers must indicate whether they do manufacture or import the substance.

Under these regulations "small manufacturers" are also required to report whether the chemical substance is manufactured and processed only within one site and not distributed outside that site. The Administrator has determined that this is very important for utility of the inventory and that the burden of reporting this additional information by manufacturers is negligible. Specifically, EPA may want to use this information, i.e., which chemical substances are now "site-limited", for purposes of requiring notification under section 5(a)(1)(B) prior to distribution of such substances outside the manufacturing site.

Small manufacturers and importers are exempt from reporting the production volume and site information that will be required by these regulations. As is discussed in response to comments 1 through 12, this information is being required pursuant to the general reporting authority of section 8(a) to obtain sufficient information to implement the provisions of TSCA. In defining "small manufacturer or importer" EPA has attempted to balance the burdens to manufacturers and importers of submitting this information against the value of that information to the Agency.

The Administrator has determined that requiring production and site information from all manufacturers and importers other than "small manufacturers and importers" as defined in these regulations, will not present an unreasonable burden. For those firms with approximately \$5 million in sales, the costs of reporting will range from about 0.6 percent of annual profits (for reporting for the inventory alone) to about 1.2 percent (for also reporting product volume and identity of substances manufactured by site). These figures assume a 6 percent profit rate. For example, a firm with \$5 million in sales and \$300,000 in profits (6 percent) would have to spend about \$3,500 (1.2 percent of \$300,000) to comply with these regulations. The above costs would decrease as the size of the firm increases.

The firms generally most impacted are those with the largest number of chemicals to report. Those firms with less than \$5 million in sales must report production volume by site for chemicals manufactured in quantities in excess of 100,000 pounds. The costs to these firms will fall between 0.6 and 1.2 percent of profits, or between the costs of reporting for the inventory alone and the costs of reporting all required information.

In analyzing the costs of reporting, EPA examined the costs to those required to report under section 710.3. The bulk of respondents would fall in SIC group 28, Chemicals and Allied Products, or SIC 2911, Petroleum Refining. The remaining respondents are those who are not classified as SIC 28 or 2911 firms but who have at least one site from which thirty percent or more of products distributed are of the type described by SIC 28 or 2911, or who either manufacture a total of one million or more pounds of reportable chemical substances or manufacture one or more chemical substance in quantities of 100,000 pounds or greater. The costs per chemical of reporting for these additional firms would be similar to the costs estimated for the SIC 28 and 2911 firms. However, the costs as a percentage of sales would be smaller because chemical sales are a relatively smaller portion of their total sales.

In estimating the number of firms required to report by these rules, EPA started with the firms classified as primarily producers of SIC 28 and 2911 products. This number was then reduced to account for those firms within SIC 28 and 2911 who are not manufacturers (i.e., processors) and those whose primary products are not covered by TSCA (e.g., SIC 283, Drugs and SIC 2879, Pesticides). Firms whose major products are not in SIC 28 or 2911 but which had significant chemical manufacturing activities were also examined and included in the analysis. The total number of firms expected to be required to report is estimated to be approximately 5400.

This definition of small manufacturer will exempt approximately 78 percent of the firms required to report from complete reporting of production and site information. Though the number of firms defined as small is significant, they account for less than 5 percent of the sales and 6 percent of employment.

EPA has consulted with the Small Business Administration (SBA) in developing this definition of "small manufacturer or importer." The SBA suggested that EPA define as a "small manufacturer or importer" a company with 100 employees or less. Such a definition would exempt a slightly larger percent of firms; it would be equivalent to exempting companies whose total annual sales are approximately \$8.8 million. These final rules substantially reduce the burden of reporting by requiring reporting only for intermediates which are actually isolated (see comment 67) and by requiring reporting of production volumes in broad ranges (see comment 6). Based on these changes, EPA believes that the definition of "small manufacturer or importer" in these regulations is adequate to prevent unreasonable burdens on chemical manufacturers. The SBA concurs.

Further analysis of the costs associated with this definition of "small manufacturer" is contained in the report, "Analysis of Options for Definition of Small Business and Estimated Cost of the Initial Section 8(a) Reporting Requirements", prepared by Arthur D. Little, Inc. and included in the rulemaking record.

Comment 25: Several commenters suggested that EPA should define "small manufacturer or importer" in terms of production volume and total annual sales; other commenters suggested that the term should be defined in terms of manufacturing sites, number of employees, assets, or value of sales per chemical.

Response: The Administrator considered the utility of each of these parameters and, as is discussed in response to comment 24, has decided to rely on total annual sales and production volume.

The total annual sales of a manufacturer or importer are generally known and, therefore, use of this criterion would require no additional calculations. In addition, the value of sales gives a good indication of the ability of the company to bear the reporting burden. Generally the larger the sales, the larger the staff employed by the firm, and the more resources the company will have available to report to the Agency.

Production volume gives a good indication of the potential for human and environmental exposure. Accordingly, these regulations use this criterion in conjunction with the sales criterion. However, a manufacturer or importer with total annual sales of less than \$5 million dollars only must report production volumes for those chemical substances produced in quantities greater than 100,000 pounds. Information on chemicals produced in such quantities has greater value to the Agency.

As discussed in response to comment 24, the Administrator had determined that a cri-

terion on number of manufacturing sites would have little meaning for the purposes of this regulation. It has no relation to cost or burden on a company and the additional information gained by EPA by including this criterion would be minimal since very few firms that satisfy the other criteria of the definition would have more than one plant site.

The number of employees of a manufacturer or importer may be useful a parameter for determining the burdens of a reporting requirement. However, it is not as good a measure as sales of the ability to bear the burden of reporting. This is particularly true since there are significant variations in dollar sales per employee in various segments of the chemical industry reflecting a substantial difference in the abilities of various firms to bear the burden of reporting. Over the entire industry, annual sales per employee is about \$30,000, varying from \$45,000 in SIC 2816, Inorganic Pigments to over \$225,000 in SIC 2911, Petroleum Refining.

Criteria based on assets or value of sales per chemical are also not included in these regulations. The value of assets would provide an indication of the size of a firm. However, the components of total assets are complex and the information is not generally available to the public. Further, assets may not bear any relationship to a company's ability to absorb these reporting costs. Value of sales per chemical produced might provide a good measure of a company's ability to bear reporting costs; however, this criterion would require a company to make a determination as to whether it was a "small manufacturer or importer" with respect to every chemical manufactured. This would be an unnecessary burden.

Comment 26: Including a volume of production limit as part of the definition of "small manufacturer or importer" is consistent with the Act and will give EPA at least a rough estimate of the quantities of chemicals produced.

Response: As discussed in comment 24, in determining an appropriate definition of "small manufacturer or importer," EPA considered the value of and need for this information with respect to the costs to manufacturers and importers of submitting the information. Production data are to be used primarily in decisions concerning prioritization of Agency actions and allocations of Agency resources. Because of this, the Agency's need for the information grows as production volume increases, thus justifying an increased burden to small businesses who produce large quantities of chemical substances. EPA is requiring reporting of production volumes in excess of 100,000 pounds from all companies. Under these final regulations, reporting production volumes should not be burdensome, especially for those substances manufactured in substantial quantities.

Comment 27: EPA should define the term "small manufacturer" without respect to whether a manufacturer is owned or controlled by another company. A manufacturer who meets the basic criterion should be considered a "small manufacturer," even if the manufacturer's company is owned or controlled by another company.

Response: The Administrator disagrees with this comment. The legislative history of TSCA makes it clear that in considering what manufacturers and processors qualify as "small manufacturers and processors," the Administrator must consider whether the company is owned or controlled by another company and apply the factors for determining "small manufacturers or processors" to both companies. H. Rep. No. 94-1341, 94th Cong., 2nd Sess. 5 (1976).

Processors

Comment 28: EPA does not have the discretion to prevent processors of chemical substances (including manufacturers of a mixture or article containing the chemical substance) from reporting for the initial inventory.

Response: EPA interprets section 8(a) of the statute as providing broad discretion to determine which persons shall be subject to any reporting rule. Section 710.3(c) provides that the processors are not subject to the initial inventory. They may report chemical substances not included on the initial inventory during the reporting period for the revised inventory.

These regulations provide that persons who will be subject to the premanufacture notification requirements of section 5(a)(1)(A) of the Act are subject to the initial inventory. The requirements of section 5(a)(1)(A) only apply to manufacturers and importers of chemical substances; processors of chemical substances are not required to give premanufacture notification on new chemical substances. Therefore, processors are not subject to the initial inventory.

If processors were subject to the initial inventory, the Agency expects that the number of respondents would increase ten-fold. Moreover, the Agency expects the list of chemical substances reported by manufacturers and importers to contain over 95 percent of the chemical substances which are manufactured or processed for a commercial purpose in the United States. Accordingly, by making processors and users of chemical substances subject to only the revised inventory, the Agency will avoid duplicative reporting and substantial delays in publication of the inventory. The Agency will not process any reports submitted for the initial inventory by processors or users of chemical substances.

It is a prohibited act under section 15(2) of TSCA for a person to use for a commercial purpose a chemical substance which he had reason to know was manufactured in violation of section 5. The Agency has announced, however, that section 15(2) with respect to section 5(a)(1)(A) will not be applied to persons who process or use a chemical substance for a commercial purpose until publication of the revised inventory. Therefore, by reporting during the reporting period for the revised inventory, processors of chemical substances will be able to protect themselves from prosecution under the statute.

CHEMICAL SUBSTANCES MANUFACTURED OR PROCESSED FOR A COMMERCIAL PURPOSE

Comment 29: The definition of the term "manufacture for a commercial purpose," should be modified to exclude the manufacture of a chemical substance in small quantities for research and development.

Response: The Administrator disagrees with this comment. Chemical substances which are manufactured for research and development are "manufactured for commercial purposes" within the meaning of TSCA and are appropriately included under this definition. However, if these substances are produced solely in small quantities for research and development they are specifically excluded from the inventory under section 8(b), and are exempt from the premanufacture notification requirements of section 5(a) by section 5(h)(3) of the Act.

Comment 30: Commercial biological preparations such as yeasts, bacteria, and fungi should not be considered "chemical substances" under TSCA.

Response: The Administrator disagrees with this comment. The term chemical substance is defined to mean "any organic or inorganic substance of a particular molecu-

lar identity including any combination . . . occurring in nature." This definition does not exclude life forms which may be manufactured for commercial purposes and nothing in the legislative history would suggest otherwise.

EXCLUSIONS TO THE DEFINITION OF CHEMICAL SUBSTANCES

Mixtures

Comment 31: EPA should clarify that manufacturers, not processors, have the responsibility for reporting the component chemical substances of a mixture.

Response: EPA believes that these regulations clarify that only manufacturers of chemical substances must report for the initial inventory. In fact, processors are not subject to the initial inventory. Processors, including manufacturers of mixtures, may report for the "revised" inventory.

Comment 32: Multi-nutrient "mixed fertilizers" that could have been prepared by physically blending dry products such as urea, superphosphate, and potash, should be considered mixtures, regardless of whether they are produced by physically mixing or by a method that involves a chemical reaction, such as by combining liquid ammonium phosphate and granulating with potash.

Response: The Administrator agrees with this comment and will consider multinutrient "mixed fertilizers" as mixtures of the ingredients being mixed.

Comment 33: Manufacturers of alloys including steel, glasses, ceramics, enamels, Portland cement, and similar combinations of chemical substances should not be required to report for the inventory.

Response: The Administrator agrees with this comment. Alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement, are mixtures under TSCA; manufacturers of these products are not required to report them. However, as stated in a note at § 710.4(c), the exclusion of these products applies only to the mixture and not to the chemical substances of which the mixture is comprised. Thus, the metals in the case of alloys, or oxides in the case of glasses and ceramics, and any additives or components other than impurities, should be included on the inventory. The manufacturers of the metals, oxides, and additives would be responsible for reporting them.

Comment 34: "Hydrates" and "hydrated ions" should be considered "mixtures."

Response: The Administrator agrees with this comment and has defined the term "mixture" to include "hydrates." Hydrated forms of chemical substances are accordingly exempt from the inventory. The anhydrous chemical substances, however, should be included. Thus the manufacturer of hydrated copper sulfate, $\text{CuSO}_4 \cdot (\text{H}_2\text{O})_x$, would report that anhydrous form, CuSO_4 , for the inventory. As clarified in the preamble to the March 9 regulations, this provision does not apply to the product of discrete chemical reactions in which either water or a solvent is a reactant, e.g., water reacting with an ester to form an acid and an alcohol. Similarly, metal hydroxides formed by the reactions of metal oxides with water are not considered to be hydrates.

Comment 35: If a person combines two or more chemical substances to produce a "mixture," the person should be considered a "manufacturer of the mixture," not a "processor of a chemical substance."

Response: The Administrator disagrees with this comment. A person who combines two chemical substances to produce a mixture, the person should be considered a "processor of the mixture" or a "processor of the chemical substance." For the purposes of these regulations, regardless of how such

a person is characterized, he may only report during the reporting period for the revised inventory.

The Agency recognizes that the Congress in section 8(a) established a different standard for requiring reporting and retention of information on mixtures than on chemical substances. EPA does not intend to require reporting on mixtures from either their manufacturers or processors when information concerning the chemical substances which comprise the mixture is adequate for the Agency's purposes.

Comment 36: The definition of the term "mixture" should be expanded to include (1) incidental reaction products, (2) some chemical substances, (3) chemical substances which are the result of a chemical reaction that occurs upon use of certain chemical substances, such as curable plastic or rubber molding compounds, or other substances which are formed during the manufacture of an article, and (4) chemical substances which occur as the result of a chemical reaction when specified substances including, for example, a stabilizer, colorant, or antioxidant, function as intended, or when a chemical substance which is solely intended to impart specific physico-chemical characteristics, functions as intended.

Response: The Administrator disagrees that the substances encompassed within this comment are "mixtures" within the meaning of TSCA. EPA believes that each of the reaction products is a "chemical substance" for the purposes of TSCA and that the chemical substance is manufactured or processed for a commercial purpose within the meaning of section 8 of the Act. However, in keeping with the legislative history of the Act, § 710.4(d) excludes all these substances from the inventory because they are not manufactured for distribution in commerce as chemical substances *per se* and have no commercial purposes separate from the mixture or article of which they may be a part. In addition, they are not subject to the premanufacture notification requirements of section 5. The Administrator may in the future impose a section 8(a) reporting rule as to these substances. In addition, the provisions of sections 8(c), 8(d) and 8(e) are applicable to these substances.

The term "mixture" under TSCA has a meaning which is different from its usual meaning in some respects. Many compositions commonly considered to be mixtures are "chemical substances" rather than "mixtures" for purposes of these regulations.

A combination of two or more chemical substances is itself a "chemical substance" for purposes of these regulations unless it falls within the specific definition of the term "mixture." In general, a combination of two or more chemical substances is a "mixture" if they have been combined by actually mixing them together.

If, however, the combination occurs in nature, it is a "chemical substance" and is not a "mixture." If, further, the combination is prepared by a chemical reaction, it is a "chemical substance" and not a "mixture," unless the combination could actually have been manufactured for commercial purposes at this time without a chemical reaction e.g., by mixing its separate components with each other.

Note.—Hydrates and hydrated ions are treated separately, and are discussed in comment 34.

Pesticides and Foods, Food Additives, Drugs, Cosmetics and Devices

Comment 37: Various commenters stated that a substance should be excluded from TSCA if it is intended for use solely as a pesticide, food, food additive, drug, cosmetic, or device.

Response: The Administrator agrees with these comments. Pesticides are regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, 7 USC 136 et seq. Foods, food additives, drugs, cosmetics, and devices are regulated under the Federal Food, Drug and Cosmetic Act (FFDCA), 21 USC 321 et seq. If the manufacturing, processing, distribution, or use of a substance is regulated under either FIFRA or FFDCA, the substance would not be subject to regulation under TSCA insofar as it is actually manufactured, processed or distributed in commerce for use as a pesticide, food, food additive, drug, cosmetic or device. If a substance has multiple uses only some of which are regulated under FIFRA or FFDCA, the manufacture, processing, distribution, and use of the substance for the remaining uses would come within the jurisdiction of TSCA. In cases where a substance is manufactured, processed, or distributed for undifferentiated uses, the substance will be presumed to be subject to TSCA for the purposes of these regulations. EPA recognizes that the interrelationship of TSCA, FIFRA, and FFDCA is complex and that jurisdictional issues need further exploration in light of the various types of regulatory situations that may arise and the Congressional intent of avoiding both dual jurisdiction and regulatory gaps. EPA believes that an appropriate resolution has been made in this particular instance.

Comment 38: A substance should be considered a pesticide at the time that an application for an experimental use permit or an application for registration is submitted.

Response: The Administrator agrees with this comment. If a manufacturer, processor, or distributor of a substance expects to receive benefit in pest control from its use, it would be considered a pesticide within the meaning of FIFRA. Submission of an application for an experimental use permit (FIFRA) section 5, 40 CFR Part 172) or an application for registration (FIFRA) section 3, 40 CFR Part 162) will be evidence that the substance is a "pesticide" within the meaning of FIFRA. Prior to this stage, the substance will be presumed to be a chemical substance within the meaning of TSCA. Therefore, any particular substance will first be subject to the provisions of TSCA and then, the provisions of FIFRA.

Implementation of this approach will not pose an unreasonable burden on registrants of pesticide products. The substance will be considered a "chemical substance" under TSCA at the research and development stage. Assuming that the substance is only produced in small quantities for research and development (as defined in these rules), under the exemption of section 5(h)(3), the TSCA premanufacture notification requirements would not apply. The Administrator could require that all persons engaged in experimentation, research or analysis of the substance be notified of any risk to health which may be associated with the substance. This is entirely in keeping with the purposes of TSCA.

In addition, the Administrator could take regulatory action on the substance under TSCA sections 4, 6 or 7, and could require reporting under section 8(a)(1)(B). The Agency recognizes the importance of research and development and does not intend to impede such innovation unnecessarily. Chemicals in the research and development stage are generally handled by technically qualified persons and only in small quantities. Accordingly, although the Agency may take regulatory action (including labelling and disposal requirements) in order to regulate inadvertent mishandling of research chemicals by an untrained person and inadvertent exposure to the environment of the research chemical, submission of test data and extensive regulation of the uses of the substance

would normally be limited to situations involving significant exposure. In the case of a research chemical which becomes a pesticide, these latter areas of concern would be addressed under FIFRA.

Comment 39: Various commenters maintained that raw materials, intermediates, and inert ingredients produced or used in the manufacture of a pesticide should be considered "pesticides" and excluded from regulation under TSCA. Other commenters argued that raw materials and intermediates produced or used in the manufacture of a pesticide are not "pesticides," are not covered under FIFRA, and should be regulated under TSCA.

Response: The Administrator agrees that raw materials, intermediates and inert ingredients produced or used in the manufacture of a pesticide are substances or mixtures which can be regulated under TSCA.

In order to be considered a pesticide, a substance must be intended for use as a pesticide. Raw materials, intermediates, and inert ingredients produced or used in the manufacture of a pesticide are not themselves regulated under FIFRA (unless they happen to be pesticides themselves) and, therefore, are subject to TSCA. The pesticide regulations at 40 CFR 162.4 are consistent with this view. A manufacturing use product is considered a pesticide, (40 CFR 162.4(b)(3)); an intermediate substance intended for the production of a pesticide product by chemical reaction with other substances is not considered a pesticide, (40 CFR 162.4(c)(6)).

The legislative history of TSCA also supports this view. TSCA was enacted to provide protection from harmful chemicals where legal authority was previously inadequate, cumbersome or inefficient. Congress intended to avoid the possibility that the risks from a chemical would not be subject to regulation. S. Rep. No. 94-698, 94th Cong., 2d Sess. 5 (1976). H. Rep. No. 94-1341, 94th Cong., 2d Sess. 6 (1976). In addition, Senator Allen of the Senate Committee on Agriculture and Forestry in attempting to conform the language of TSCA to that of FIFRA specifically addressed the interface between FIFRA and TSCA stating: "... any chemical or toxic substance would first be subject to the provisions of (TSCA) and yet when it becomes a component of a pesticide, it would be subject to FIFRA. In many instances the manufacturer and registrant of the component is also the manufacturer and registrant of the pesticide." Committee on Interstate and Foreign Commerce, 94th Cong., 2d Sess., Legislative History of the Toxic Substances Control Act 232 (1976). A raw material, intermediate, or inert ingredient which is not itself a pesticide would, accordingly, be a chemical substance within the jurisdiction of TSCA; it would come within the jurisdiction of FIFRA when it becomes a component of a pesticide product.

The manufacturer, processor, or distributor of the chemical substance who does not also manufacture, process or distribute a pesticide product will not be subject to the dual jurisdiction of TSCA and FIFRA. That person will only be subject to TSCA. The manufacturer, processor, and distributor of the raw material, intermediate, or inert ingredient who also manufactures the pesticide product will be subject to the jurisdiction of both acts. TSCA and its legislative history contemplates this, and EPA has no discretion to reach a different result since a raw material, intermediate, or inert ingredient (which is not itself a pesticide) cannot be regulated under FIFRA until it becomes a component of a pesticide product. As a matter of policy, however, EPA does not intend to impose duplicative requirements on these substances.

Comment 40: A substance should be considered a food, food additive, drug, cosmetic or device at the time that the Food and Drug Administration (FDA) regulates the substance.

Response: The Administrator agrees with this comment. As soon as the FDA regulates a product, its manufacture, processing, or distribution in commerce solely for a FDA regulated use will be excluded from the jurisdiction of TSCA. The FDA gives as examples of such points in time: when an application for exemption for an investigational use of a new drug is submitted (FFDCA 505(a); 21 CFR Part 312); when an application for exemption for investigational use of a new animal drug is submitted (FFDCA 512(a); 21 CFR Part 511); and when an application for exemption for investigational use of a device is submitted (FFDCA 520(g); 21 CFR Part 812, as proposed, 41 FR 35282, August 20, 1976).

Comment 41: Intermediates and catalysts intended solely for use in the production of a food, food additive, drug, cosmetic, or device are excluded from regulation under TSCA.

Response: The Administrator agrees with this comment. The definitions of the FFDCA provide that chemical substances which are intended for use as a component of a food, food additive, drug, cosmetic, or device are encompassed within the meaning of such terms, respectively. The FDA considers intermediates and catalysts to be such components. Therefore, they are subject to regulation under the FFDCA. Any such substance is excluded from regulation under TSCA insofar as it is actually manufactured, processed or distributed in commerce solely for use in the production of a food, food additive, drug, cosmetic or device.

Comment 42: Substances which are approved for use by the Food and Drug Administration as foods or food additives, should be excluded from further regulation under TSCA even when used for commercial (non-food) uses.

Response: As discussed in response to comment 37, if a substance has multiple uses only some of which are regulated under the FFDCA, the manufacturing, processing, distribution, and use of the substance for the remaining uses comes within the jurisdiction of TSCA. Under these regulations, that substance should be reported for the inventory.

EPA does not intend to impose duplicative requirements on manufacturers and processors subject to regulation under another Federal authority. Accordingly, EPA will consult with FDA or any other Federal agency, as appropriate, prior to taking regulatory action on substances which are also regulated under other authorities.

CHEMICAL SUBSTANCES EXCLUDED FROM THE INVENTORY

Small Quantities for Research and Development

Comment 43: The exemption for "small quantities for research and development" should include small quantities used for quality control testing and for development of a chemical substance or product.

Response: The Administrator agrees, in part, with this comment. Chemicals used for quality control testing and for the development of a product are considered "small quantities for research and development" if they fall within the definition provided in § 710.2(y). Specifically, they must be manufactured or processed in quantities no greater than reasonably necessary for such purposes and, after publication of the revised inventory, they must be used by, or directly under the supervision of, "technically qualified individual(s)," a term defined in § 710.2(aa). Substances can be "small quantities for re-

search and development" even if they are distributed in commerce.

Comment 44: Numerical limits should be included in the definition of small quantities for research and development.

Response: The Administrator considered establishing upper limits for small quantities for research and development and found that different values might have to be assigned for various groups of substances depending upon their physical/chemical characteristics and intended uses. For example, many plastics and fibers are commonly produced in 100,000 pound quantities during the developmental phase, while additives or minor use substances may be manufactured in a few thousand pounds or less for research and development purposes. After compilation of the inventory, the Agency will consider developing a schedule of quantities to define small quantities for different chemical substances and different purposes.

For these reporting requirements, however, EPA will in large part rely on the qualitative test contained in the definition at § 710.2(y). In response to this comment, as provided in a note to the definition, if a substance is manufactured or imported in quantities of less than one thousand pounds, annually, it will be presumed to be for research and development purposes. If a manufacturer wishes to report for inclusion on the inventory a chemical substance which is manufactured for commercial purposes in quantities of less than one thousand pounds, annually, he must be able to certify that the substance is used for purposes other than for research and development. After the publication of the revised inventory, in order to qualify as a "small quantity for research or development," these quantities must be used by, or directly under the supervision of, a technically qualified individual.

Comment 45: The exemption for "small quantities" should not extend to research or analysis of chemical substances for the development of a product. The exemption should apply only to research in a laboratory and not to situations where production workers are exposed.

Response: The Administrator disagrees with this comment. The legislative history of the Act makes clear that Congress intended the exemption for "small quantities" to extend to chemical substances in the developmental period and not only to research chemicals in a laboratory. H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 29-30 (1976). The Congress contemplated that during the research and development phase, a chemical substance would be within the control of technically qualified individuals who would appreciate the risks from exposure to the substance and be able to minimize such risks. The regulations provide that a compound will only qualify for the "small quantities" exemption if it is used by, or directly under the supervision of, technically qualified individual(s). The Agency expects this requirement to provide workers in the development of a product the same protections as workers in the laboratory. In addition, section 5(h)(3) of the Act specifically provides that in order for a substance to be exempted from the requirements of premanufacture notification, all persons handling the chemical substance for the manufacturer or processor must be notified of any risk to health which the manufacturer, processor or the Administrator has reason to believe may be associated with it.

Comment 46: The exemption for "small quantities" should not extend to chemical substances distributed in commerce.

Response: The Administrator disagrees with this comment. Congress recognized that

a manufacturer may not be able to evaluate fully a potential product in house. So long as the research and evaluation of the substance is conducted by or under the direct supervision of persons technically qualified to analyze and evaluate the physical, chemical, and performance characteristics of the substance, the Congress intended the exemption to apply. H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 30 (1976).

Comment 47: After the effective date of the premanufacture notification requirements, EPA should require all research and development chemicals to be labeled rather than require a "certification of use" statement by a customer upon each sale.

Response: The Agency recognizes that it may be unnecessarily burdensome to require customers to certify upon each sale (or even annually) that the chemical substances they purchase are for research and development only. EPA is considering imposing a labeling requirement on all research and development chemicals (such as "For Research And Development Use Only") and requiring distributors of such chemicals to include statements in their catalogs and sales literature detailing the restrictions on use.

Comment 48: EPA should clarify the responsibilities under these regulations of persons who manufacture or import chemical substances solely in small quantities for research and development.

Response: Chemical substances manufactured, imported, or processed solely in small quantities for research and development as defined at § 710.2(y) are excluded from reporting for the inventory under § 710.4(c)(3). As discussed above, if a person manufactures or imports a chemical substance in quantities of less than one thousand pounds annually, the substance is presumed to be for research and development. In such a case, in order to report the substance a manufacturer or importer must be able to certify that the substance is being used for purposes other than research and development.

With respect to quantities greater than one thousand pounds, manufacturers and importers are not required to obtain certification from their customers concerning the intended use of such chemicals. However, unless a manufacturer or importer knows that a customer is using a chemical substance for other than research purposes, he should not report that chemical substance. The special reporting period after publication of the initial inventory is expressly to provide an opportunity for people to supplement the initial inventory with chemical substances which are manufactured or processed for commercial purposes but which were not reported by manufacturers or importers. The customers of a company selling primarily research chemical substances could report any chemical substance that belongs on the inventory at that time.

Comment 49: The provision that small quantities for research and development must be used by, or directly under the supervision of a technically qualified individual, should be deleted.

Response: The Administrator disagrees with this comment. As discussed in response to comments 43, 44, 45, and 46 above, Congress clearly intended research and development chemicals, that are exempted from the inventory and from premanufacture notification requirements, to be used only by, or under the supervision of technically qualified individuals.

Comment 50: Professional certification should be added as a factor which would establish that a person is "technically qualified."

Response: EPA believes that this factor is already included in the definition of tech-

nically qualified individual. EPA presumes that professional certification would be based on the education, training, or experience of the individual. Accordingly, it would be redundant to include professional certification as a separate factor. Persons could cite their professional qualifications as evidence of being a "technically qualified individual."

Comment 51: Can the responsibilities included within the definition of "technically qualified individual" be delegated to more than one person?

Response: The Agency recognizes that some manufacturers may designate an individual other than the person actually conducting or directly supervising the research or development as the person responsible for making safety assessments and clearances with respect to the procurement, storage, use, and disposal of the chemical substance. Such responsibilities can be delegated, so long as all phases of the research and development of a product are conducted, or directly supervised by a person who because of his education, training, or experience, or a combination of these factors, is capable of appreciating the health and environmental risks associated with the chemical substance.

For example, one person may be responsible for analyzing the properties of a chemical substance used as a glue to back a rug, while a second person may have responsibility for determining how to dispose of the rug samples that contain the experimental glue. Similarly, there may be a duly authorized individual responsible for procurement of research chemical substances who is different from the technically qualified individuals who conduct the experiments with those chemical substances. So long as each of these persons is professionally qualified, the "technically qualified individual" definition will be fulfilled.

Byproducts

Comment 52: All byproducts should be required to be reported for the inventory.

Response: The Administrator disagrees with this comment. As a matter of policy, the Agency has decided that byproducts which have no commercial purpose should not be reported for the inventory. And, as is discussed in response to comment 54, byproducts which have some commercial value are not required to be reported for the inventory. Insofar as these wastes are hazardous, EPA intends to require reporting of them under the Resource Conservation and Recovery Act (Pub. L. 94-580) next spring, or under TSCA section 8(a)(2) during subsequent phases of reporting. Moreover, the provisions of TSCA sections 8(c), 8(d), and 8(e) are applicable to byproducts and the Agency will use the authorities of TSCA sections 4, 6, and 7 to prevent and reduce any unreasonable risks posed by byproducts.

Comment 53: The definition of byproduct in the March 9, 1977, proposal is confusing. Chemical substances formed as a result of secondary chemical reactions, including those that occur upon end-use or in storage, are not "byproducts."

Response: EPA recognizes that the definition of byproduct in the March 9 proposal was confusing. The August 2 proposal and these final regulations (§ 710.2(g)) have redefined "byproduct" to include only those chemical substances produced without separate commercial intent during the manufacture or processing of other chemical substances or mixtures.

The legislative history of TSCA makes clear that these secondary chemical substances are not to be subject to the inventory and premanufacture notification requirements because they are not manufactured for commercial purposes per se. S. Rep. No.

94-698, 94th Cong. 2d Sess. 19 (1976). Accordingly, section 710.4(d)(2) of these regulations excludes these substances from these requirements.

Comment 54: Should slags which have some commercial value and that are byproducts in the manufacture of another substance be reported for the inventory?

Response: Section 710.4(d)(2) of these regulations provides that byproducts that have some specific kinds of commercial value may be reported for the inventory, although there is no requirement that they be so reported. Byproducts that have no commercial value may not be reported for the inventory.

Comment 55: Persons who extract component chemical substances from byproducts should not be required to report those chemical substances.

Response: The Administrator agrees with this comment. Persons who recover chemical substances from byproducts of the manufacture or processing of other chemical substances, mixtures, or articles would be processors of the chemical substances and need not report for the inventory. There is no requirement that these persons report any chemical substance which is extracted or separated from a byproduct, including by means of heat or a chemical reaction, if the chemical substance that is recovered is actually present in the byproduct or was an intermediate used in the manufacture of the byproduct, and if also, to the best of the knowledge of the person recovering the substance, the manufacturer of the substance is reporting the substance for inclusion on the inventory.

Articles

Comment 56: Can articles be reported for the inventory?

Response: Articles as defined at § 710.2(f) will not be included on the inventory. The inventory is a list of chemical substances manufactured or processed for a commercial purpose in the United States. Chemical substances of which articles are comprised can, however, be reported for the inventory.

Comment 57: What are the reporting requirements with respect to manufactured items containing fluids or particles?

Response: The definition of "article" at § 710.2 excludes fluids and particles regardless of shape or design. Accordingly, all fluids and particles will either be a "mixture" or "chemical substance" for the purposes of TSCA. Any fluid or particle which is a chemical substance should be reported for the inventory. See also response to comment 21.

Comment 58: The definition of "article" should be modified to include products such as films and batteries which undergo chemical changes during their end uses.

Response: The Administrator agrees with this comment and has amended clause 3 of the definition to include within the meaning of "article" a manufactured item "which either has no change of chemical composition during its end-use or only those changes in composition which have no commercial purpose separate from the article of which it is a part and that may occur as described in § 710.4(d)(5)." The provision in § 710.4 is an exclusion for chemical substances which are the result of reactions that may occur upon end-use of other chemical substances, mixtures, or articles. Under this revised approach, batteries, photographic films, matches, flares, ablative nose cones, brake linings, and other such products are considered "articles."

Comment 59: Fibers, filaments, and whiskers should be considered articles.

Response: As defined in § 710.2(f), fibrous materials may be considered articles if (1) their end-use functions depend in whole or

in part upon their shape or design and (2) they are functional in their end-use without a change of chemical composition except for changes that have no commercial purpose separate from the articles of which they are a part. If a person shapes a chemical substance into a filament or fiber, he would be a processor of that substance. The chemical substance would be reportable by the manufacturer. The filament or fiber or whisker would be an article and could not be reported. However, if that fibrous material was intended to be used as an intermediate in the manufacture of another chemical substance, it would not be considered an article. It would be considered a chemical substance (or mixture). Particles are not articles whether they are round or asymmetric. If a whisker or other fibrous material may be used as a particle in its subsequent processing, it would not be considered an article.

Comment 60: Chemical substances used in the finishing process of an article should not be excluded from the inventory. Dyes and fire retardants are two examples of substances which should be reported.

Response: The Administrator agrees with this comment. There has been some confusion over the intent of the exclusion in §710.5(d)(8) of these regulations. The exclusion is for chemical substances that are not manufactured for distribution in commerce as chemical substances per se and have no commercial purpose separate from the mixture or article of which they may be part.

Dyes and fire retardants are chemical substances, manufactured for distribution in commerce as chemical substances, and therefore do have a separate commercial purpose. These substances should be reported by their manufacturers for inclusion on the inventory. The exclusion in §710.4(d)(8) is for chemical substances formed when the dye or fire retardant reacts with fibers of a garment or other article upon end-use of those substances by a processor. These reaction products must not be reported.

Impurities

Comment 61: Chemical substances should be listed on the inventory with respect to their impurities.

Response: The Administrator disagrees with this comment. The Agency has determined that as a matter of policy, this first inventory should not distinguish among chemical substances which are identical except with respect to their impurities. The Agency recognizes the potential hazards of some impurities and intends to use the alternative authorities of sections 4, 6, 7, and 8 to prevent and reduce any unreasonable risks posed by impurities. In addition, in the future EPA may revise the inventory to take impurities of a chemical substance into account.

CHEMICAL SUBSTANCES INCLUDED IN THE INVENTORY

Comment 62: Since customer demand runs in cycles, some provision should be made to allow companies to report chemical substances which they manufactured for a commercial purpose more than three years ago and plan to produce again.

Response: The Administrator agrees in part with this comment. Section 8(b) of TSCA provides that a chemical substance may not be included on the inventory if it was not manufactured or processed within three years before the effective date of these regulations. Accordingly, §710.3(a)(3)(ii) of these regulations, provides that if a person manufactured a substance for a commercial purpose before January 1, 1975, he may still report

the substance for the inventory if he certifies that the substance was processed after January 1, 1975. If a manufacturer neither manufactured a chemical substance nor can certify that the substance was processed within the past three years, he may not report the substance for the inventory, even if he plans to produce it again in the future. If the substance is not reported for the inventory by the manufacturer or by another manufacturer or processor, manufacturers will have to submit premanufacture notification on the substance 90 days before manufacturing it again.

Comment 63: Manufacturers should be able to report chemical substances manufactured since July 1, 1974, as provided in the March 9, 1977, proposal.

Response: The Administrator disagrees with this comment. The July 1, 1974, date was included in the March 9, 1977, proposal on the assumption that final inventory reporting rules would be promulgated by July 1977. Section 8(b) of TSCA clearly provides that the inventory may not include any chemical substance which was not manufactured or processed within 3 years of the effective date of these rules. As discussed in response to comment 62, a manufacturer may report a substance for the inventory if it was manufactured before January 1, 1975, so long as it was processed after January 1, 1975.

Test Marketing

Comment 64: The Administrator has no authority to exclude chemical substances presently undergoing test marketing from the initial inventory.

Response: Any chemical substance which is manufactured or imported for test marketing purposes is eligible for inclusion on the inventory. This is made clear by the definition of the term "manufacture or import for commercial purposes" at §710.2(p). After the effective date of the premanufacture notification requirements of section 5(a)(1)(A), a manufacturer may not test market a new chemical substance without first either providing the premanufacture notification required by that section or obtaining an exemption from the requirement under section 5(h)(1) of the Act.

Comment 65: The critical factor in distinguishing the "development phase" of a product from its "test marketing" phase is that the latter phase contemplates a sale. The word "sale" must be included in the definition of "test marketing" because accepted and ordinary usage of the phrase involves the sale of a product under practical competitive conditions.

Response: The Administrator does not agree with this comment. Sale of a product does not always distinguish its development phase from its test marketing phase. The Congress itself recognized that "the fact that the other industrial user may pay the costs for the substance does not necessarily signal the end of the development period." H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 30 (1976).

For the purposes of these regulations, research and development activity will be differentiated from test marketing primarily by the greater degree of control maintained by the manufacturer and the greater technical qualifications of those handling and supervising the use of the substance during the research and development phase. Distribution of the product during the test marketing phase generally removes the product, its use, and its disposal from the direct supervision of the manufacturer. (See response to comments 43-51.)

Comment 66: EPA should place restrictions on both the population and geography which may be exposed to products in test marketing and should require labeling of products to indicate potential hazards.

Response: The Administrator has authority under section 5(h)(1), to impose such restrictions on test marketing of a chemical substance as are necessary prior to exempting the chemical from the premanufacture notification requirements. In addition, the Administrator will use the authorities of sections 4, 6, and 7 of the Act to prevent unreasonable risks to man and the environment.

Intermediates

Comment 67: The term "intermediate" should exclude intermediates that are merely "isolatable", and are never encountered in the environment. The identification of these intermediates will often require highly trained chemists and will significantly increase the costs of complying with the reporting requirements.

Response: The Administrator agrees with this comment and the definition of "intermediate" at §710.2(n) has been amended accordingly. Chemical substances which are not removed from the equipment in which they are manufactured are not considered "intermediates" for the purposes of these regulations and are excluded from the inventory by §710.5(d)(8). EPA will require notification under section 5 for any chemical substance which is not on the inventory and which, after the date of the premanufacture notification requirements, is isolated, or intentionally removed from the equipment in which it was manufactured. A manufacturer may, however, apply for an exemption from this requirement under section 5(h)(5) if the intermediate exists temporarily and there is no, and will not be any, human or environmental exposure. Chemical substances excluded from the inventory by §710.4(d)(8) are considered to be manufactured or processed for a commercial purpose for the purposes of section 8 of the Act.

Comment 68: The definition of "intermediate" in the March 9, 1977 proposed regulations is more descriptive of an "impurity." An "intermediate" should refer to a chemical substance that is both created and totally consumed during the chemical reaction process. This description would provide a meaningful distinction between an "intermediate," a "byproduct," and an "impurity."

Response: The Administrator agrees in part with this comment and has substantially revised the definition of "intermediate." The purpose of the definitions under these regulations is to clarify which chemical substances are included and which are excluded from the inventory. The Administrator does not agree that the term "intermediate" should be restricted to chemical substances that are totally consumed in chemical reaction processes. A chemical substance may be an intermediate and also appear later as a byproduct or as an impurity. In such circumstances, the substance should be reported for the inventory.

Under these definitions, the essential difference between a byproduct and an intermediate is that the intermediate is consumed, in whole or in part, in a chemical reaction used for the intentional manufacture of other chemical substances, or is intentionally present for the purpose of altering the rate of such reaction(s). A byproduct may be formed and then consumed in whole or in part during the reaction sequence but is not an "intermediate" unless it is consumed in whole or in part in chemical reactions used for the intentional manufacture of other chemical substances or is intended to alter the rate of such reactions.

Impurities are defined as chemical substances which are unintentionally present with another chemical substance. While intermediates often appear as trace impurities in a final product, they are in general dis-

tinguished from impurities in that they serve an intentional purpose in a reaction sequence.

Comment 69: Chain transfer agents or cross linking agents used in the manufacture of polymers should be considered intermediates.

Response: The Administrator agrees with this comment. Cross linking agents and chain transfer agents which are used in the manufacture of polymers are considered to be processed for commercial purposes and should be included on the inventory. The processor who buys such substances for use in the manufacture of polymers need not report such substances. However, he should ensure that the substances are included on the initial inventory or report these substances during the special reporting period for the revised inventory.

Section 710.5(c) requires listing in the description of a polymer at least those monomers used at greater than two percent (by weight) in the manufacture of the polymer. In a similar fashion, a manufacturer would list, as part of the polymer description, those cross linking, chain transfer and other reactive agents which are present at greater than two percent (by weight) in the manufacture of the polymer. Additives such as plasticizers and emulsifiers which are only entrained in the polymer are considered to be components of a mixture and should not be considered to be components of the polymer. See response to comments 77-82 on reporting of polymers.

Comment 70: In the manufacture of polymers, there are literally thousands of intermediates deliberately present in the reaction sequence. The process may be interrupted, occasionally, for examination and testing, at which point chemically reacted substances are removed. Such substances should not be considered "intermediates" for the purposes of these regulations and should not be reported for the inventory.

Response: The Administrator agrees, in part, with this comment. If a chemical substance satisfies the definition of "intermediate" at § 710.2(n) of these regulations, for the purposes of these regulations, it is an intermediate. However, an intermediate may also fall within the exclusion from these regulations at § 710.4(c) (3) for "small quantities for research and development." If an "intermediate" is a "small quantity for research and development" it is excluded from the inventory. Hence the removal of small quantities of a chemical substance from the equipment in which it was manufactured does not make that chemical substance a reportable "intermediate" if the amount removed is used solely for testing or research purposes described in § 710.2(y).

Comment 71: The inclusion of "intentionally present catalysts" under the definition of intermediates in the March 9 proposal is confusing.

Response: The Administrator agrees with this comment and has revised the term "intermediate" at § 710.2(n) to include "any chemical substance which is intentionally present for the purpose of altering the rate of (such) chemical reaction(s)." This definition of the term "intermediate" is consistent with common usage. It considers "catalysts" as "intermediates".

Naturally Occurring Substances

Comment 72: Which of the following substances would be considered "naturally occurring substances," and therefore be excluded from the reporting requirements: natural latex; "natural rubber"; enzymes; and calcinated clays?

Response: The natural latex obtained from certain trees is considered a naturally occurring substance. However, the "natural rubber" which is formed after chemical co-

agulants are added to the latex would not be considered in the category of "naturally occurring substances". Thus, importers of "natural rubber" must report under these regulations. Enzymes are not included in this category unless they were extracted from nature only by the means described in § 710.4 (b) And, calcinated clays which are formed by heating naturally occurring clay are not included in this category because such heating is not done solely to remove water.

Comment 73: The category of "naturally occurring substances" should be expanded to include those substances which are extracted from other naturally occurring substances using any solvent, not just water.

Response: The Administrator disagrees with this comment. EPA has decided that the category should contain only those substances which are removed from nature essentially by natural means. Using water to extract a chemical substance from a naturally occurring substance is considered a natural means of removal. Using other solvents is not considered a natural means of removal.

Comment 74: The category for naturally occurring substances should include substances that are processed by electrostatic means.

Response: The Administrator agrees with this comment. In an electrostatic separation, small particles are removed from a liquid or gas stream. The process is essentially analogous to a filtration or gravitational separation. Substances which are processed by this means fall within the naturally occurring substances category.

Comment 75: How does EPA intend to regulate naturally occurring chemical substances which may be harmful?

Response: The Agency will use the authorities contained in section 8(a) of the statute to require reporting on a selective basis from manufacturers and processors of naturally occurring chemical substances. In addition, the Agency will use the authorities of sections 4, 6, and 7 of TSCA to identify and regulate any unreasonable risks to health or the environment presented by naturally occurring chemical substances.

INVENTORY REPORTING PROCEDURES

Comment 76: EPA should form a group which can help industry answer specific questions concerning filling out the reporting forms. Responses should be available within 10 days and signed by an authorized individual.

Response: The Office of Industry Assistance in the Office of Toxic Substances and the staffs of the Agency's Regional offices will be prepared to answer specific questions concerning the inventory reporting requirements. EPA will make every effort to respond to inquiries as quickly as possible.

Reporting of Polymers

Comment 77: Polymers should be required to be identified with respect to their constituent monomers present at greater than two percent with the option of reporting those monomers present at less than two percent. All monomers used in the manufacture of the polymer should be reported for the inventory.

Response: The Administrator agrees with this comment. Section 710.5(c) of the regulations is written to accomplish this result.

Comment 78: Some commenters argued that polymers should be required to be identified with respect to the constituent monomers present at greater than five percent. Other commenters argued that every constituent monomer of a polymer should be reported.

Response: The Administrator disagrees with these comments. In the interest of hav-

ing an inventory that accurately reflects the identities of the polymers in commerce, EPA felt that requiring reporting of only those constituent monomers present at five percent or greater would be unsatisfactory. On the other hand, since every monomer must be identified on the inventory even though not reported as part of a specific polymer, EPA did not believe it was essential to require reporting of each polymer with respect to all of its constituent monomers. Moreover, EPA recognizes important advantages in requiring manufacturers of polymers to identify only those monomers present at two percent or more.

First, the principal identities of many polymers that might have been claimed to be confidential if required to be fully disclosed will be included on the inventory. Further, it is sometimes difficult to distinguish what chemical substances present at less than two percent in a polymer would be appropriately considered a reportable monomer or merely an impurity. Finally, small variations among polymers due to minor process changes, for example, will not be subject to premanufacture notification provided, the polymer does not contain a new chemical substance.

EPA recognizes that for the purpose of evaluating potential toxicity, the proposed description of polymers is insufficient. EPA intends to obtain detailed information with respect to specific classes of polymers under section 8(a). In addition, EPA will consider possible refinement of descriptions of polymers for purposes of the inventory in the future. However, because potential toxicity may be dependent on properties such as solubility, molecular weight distribution, and crystallinity, it is unlikely that even with further revisions, the listing of monomers would be sufficient to indicate the relative potential toxicity of the polymers.

Finally, these regulations do not exempt from the inventory any chemical substance which is manufactured for commercial purposes as a monomer, regardless of its percentage use in the manufacture of polymers. Additives which are not intended to be part of polymeric chemical substances should not be reported as part of the description of polymers, but should be included separately on the inventory as chemical substances.

Comment 79: Some numerical molecular weight should be determined for purposes of distinguishing reactive and relatively non-reactive polymers and copolymers. Above a certain specified molecular weight, relatively non-reactive polymers should not be listed individually, but only the monomers that comprise these polymers in various combinations should be listed. Below that weight, each polymer or copolymer should be listed separately with respect to its constituent monomers.

Response: The Administrator believes that such an approach should be investigated. While it is not feasible to adopt such an approach for the present inventory, EPA may revise the inventory accordingly once an appropriate test method is adopted to ensure consistency in measuring polymer weights.

Comment 80: Any chemical substance known as a polymer should be excluded from the inventory, provided that each constituent monomer and precursor chemical is reported.

Response: The Administrator does not agree with the proposal to exclude reporting of all polymers. EPA does recognize, however, that non-volatile or inert polymers above some particular average molecular weight could perhaps be handled differently. As mentioned in response to comment 79 above, EPA intends to investigate distinguishing polymers on the basis of their average molecular weight and possibly modifying the inventory in the future.

Comment 81: How should the weight of a monomer be calculated and what is meant

by a monomer present at a certain "weight percent" of a polymer?

Response: For purpose of the inventory reporting requirements, the percent (by weight) of a monomer is the weight of the monomer charged into the reactor and not the weight incorporated into the polymer. The weight of the monomer should be expressed as a percentage of the weight of the polymeric chemical substance manufactured.

Comment 82: If a polymer listed on the inventory contains five monomers, for example, a new polymer with four of those five monomers should not be considered a "new chemical substance" for the purposes of section 5(a)(1)(A).

Response: The Administrator disagrees with this comment. If someone created a polymer that contained fifty different monomers which were added in insignificant quantities merely to include them as part of that reported polymer, a manufacturer could then create thousands of polymeric combinations based on those fifty monomers without reporting them for the inventory or submitting premanufacture notification.

Inventory Reporting Forms

Comment 83: All forms should begin with a certification to the effect that "to the best of my knowledge and belief, I certify that

Response: The Administrator agrees with this comment and has modified the forms accordingly.

Comment 84: It should not be necessary to report both chemical names and Chemical Abstracts Service (CAS) numbers on Form B.

Response: The reason that EPA requires a manufacturer to report both a chemical name and the Chemical Abstract Service Registry number on Form B is to ensure that a manufacturer has reported correctly. If EPA required only reporting of the seven-digit CAS numbers, EPA would have no means to check whether a manufacturer correctly reported that number.

Comment 85: It should be possible to fill out all forms on computer print-out or tape.

Response: Manufacturers may report chemical substances that have CAS registry numbers by computer print-out or tape. Instructions for reporting in this manner are included in the instruction booklet accompanying the forms.

Comment 86: The instructions for reporting should make clear that complex, undefined chemical substances may be reported by describing the reaction process used to manufacture the substances.

Response: EPA recognizes that it is often difficult to describe complex reaction products whose composition is variable or unknown. Many of these substances are commonly described by generic terms such as coal tar shellac, or vegetable extracts. For purposes of the inventory, manufacturers should report as specifically as possible, using generic terms and a description of the method used in the final reaction sequence to produce the reported substance. EPA will publish detailed instructions in "Reporting for the TSCA Inventory."

Comment 87: Form D is an excellent idea which will be very useful for processors and others who buy trademarked chemicals whose composition is unknown to them. It should be updated frequently.

Response: EPA encourages manufacturers who report for the initial inventory to include on Form D the trademarks, whether registered or not, by which chemical substances reported for the inventory are known. A manufacturer may report a trademark for a product which is a chemical substance, a mixture or an article containing a chemical substance. As provided in the

instructions to Form D, a manufacturer who chooses to report, must certify that all the chemical substances which comprise the trademarked product have been reported for the inventory, either by him or by someone else.

EPA recognizes that processors and users of chemical substances do not always know the identities of the substances they purchase and thus, may have difficulty determining whether or not the chemical substances they purchase are included on the inventory. Processors could individually request suppliers to certify that the substances they sell are included on the inventory. The Agency hopes to ease this burden somewhat by providing manufacturers who sell their products under a trademark an opportunity to certify that the chemical substances contained in the particular trademarked product have been reported for the inventory. Any false certification would subject a manufacturer to criminal penalties under 18 U.S.C. 1001.

The usefulness of the trademark list is, however, limited. EPA recognizes that the composition of any particular trademark product may vary over time. Further, the Agency is not now requiring manufacturers who choose to report their trademarks to link the product name with specific chemical substances. Accordingly, the Agency will not be able to verify the accuracy of the trademark list.

Because of the limited utility of the trademark list, the Agency does not now intend to update it. The list is designed to assist processors and users in reporting for the revised inventory. The Agency will be studying the continuing problem presented by the fact that persons in the chemical industry do not always know the identity of the substances they purchase.

WHEN TO REPORT

Comment 88: Manufacturers and processors need more than 90 days to report all the information required by these regulations.

Response: The Administrator agrees with this comment. Section 710.6(a) provides manufacturers and importers until May 1, 1978 to report for the initial inventory. Section 710.6(c) provides processors and users of chemical substances 210 days to report for the revised inventory. The Agency encourages persons reporting for the inventory to stagger their submissions throughout the reporting period so that they can be processed in a timely manner.

Comment 89: A manufacturer should be able to add new chemicals to the inventory any time prior to the start of premanufacture notification.

Response: The Administrator agrees with this comment. Section 710.6(b) provides this authority. A manufacturer or importer of a chemical substance in bulk may report a new chemical substance until 30 days after publication of the initial inventory. An importer of a chemical substance as part of a mixture or article may report a new chemical substance for the inventory until 30 days after publication of the revised inventory.

Comment 90: Manufacturers and importers of chemical substances should be allowed to report for the revised inventory. Premanufacture notification should not begin until after publication of the revised inventory.

Response: The Administrator disagrees with this comment. Postponement of premanufacture notification until after publication of the revised inventory would delay the effectiveness of this provision of the Act for an unacceptable period of time. The revised inventory may not be published until November 1979 or later.

Comment 91: The Administrator should provide by regulation that failure to report for inclusion in the inventory for "good

cause" will not subject the manufacturer to the premanufacture notification requirements of section 5(a)(1)(A).

Response: The Administrator disagrees with this comment. Such a provision is not appropriate for these inventory reporting regulations. EPA does recognize, however, that given the large volume of information that is to be compiled and transmitted, it is inevitable that there may be some clerical or technical errors made in reporting chemical substances for the inventory. Accordingly, the note at § 710.1(b) of these regulations provides that as a matter of traditional Agency policy, EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting. Instead, EPA will give priority to bringing enforcement actions against persons who (1) report false information, (2) report for inclusion on the inventory chemical substances which are excluded under § 710.4(c) of these regulations, (3) fail to report, or (4) fail to maintain records documenting reported information.

Comment 92: In assessing any penalty on a manufacturer, the impacts on processors and users of the chemical substance(s) should be considered.

Response: The Administrator agrees with this comment. Section 16(a)(2)(B) of the Act provides that in assessing any penalty the Administrator must take into account several factors. In assessing a civil penalty against a manufacturer, the Administrator as a matter of policy will consider the effect of the action on persons who process and use that chemical substance.

CONFIDENTIALITY

Identity of Chemical Substance

Comment 93: Some chemical identities are entitled to confidential treatment for purposes of the TSCA inventory. Any submitter should be allowed to claim that any chemical identity is confidential for the inventory.

Response: The Administrator agrees with this comment. The general approach EPA will take to confidentiality of specific chemical identities for purposes of the inventory is set out in the preamble and § 710.7 of these regulations. In choosing this approach EPA had to balance the competing concerns of section 14 and sections 8(a) and 5(b). The reasons for taking this approach follow.

The inventory is a list of chemical substances manufactured (including imported) or processed for a commercial purpose. Many chemical substances have been developed and synthesized for which no commercial purpose has been found. The fact that someone has found a commercial purpose for a particular chemical substance may be a confidential trade secret. Placement of the specific chemical identity on the inventory would announce that fact to potential competitors who might be able to narrow their research activities. This problem would be further compounded if the chemical substance were newly synthesized and known only to the person reporting it to EPA or if the substance were patentable, in which case inclusion on the inventory might constitute a publication and limit the person's patent rights.

Were there no requirement in section 8(b) of TSCA to publish a list of chemical substances manufactured and processed for commercial purposes, there is no doubt that the fact that certain substances are manufactured or processed for commercial purposes would be confidential under traditional trade secrets law and case law under the Freedom of Information Act fourth exemption (5 U.S.C. 552(b)(4)). Section 14(a) of TSCA states that any information reported to EPA under TSCA that is exempt from disclosure under 5 U.S.C. 552(b)(4) may not

be disclosed except in five situations specified in section 14 (a) and (b). Standing alone section 14 would, accordingly, seem to require that EPA not disclose the fact that a particular chemical substance is manufactured or processed for commercial purposes if that fact would be exempt from disclosure under 5 U.S.C. 552(b)(4). However, section 14 is part of a larger statutory scheme in TSCA.

Section 8(b) requires EPA to publish a list of "each chemical substance which is manufactured or processed in the United States. Such list shall include each chemical substance which any person reports, under section 5 or subsection (a) of this section, is manufactured or processed in the United States" (emphasis added). The inventory is intended to inform the public which chemical substances are being manufactured or processed in the United States for commercial purposes. With this knowledge, the public would know the chemical substances to which they may be exposed and would be able to take an active participatory role in EPA actions under TSCA. This is clearly contemplated in sections 20 and 21 of TSCA that provide for citizens' civil actions and citizens' petitions. The inventory also has a regulatory purpose. It defines what is a "new chemical substance" for purposes of section 5(a)(1)(A). A "new chemical substance" is any substance that is not included in the inventory. If a chemical substance is a new chemical substance no person may manufacture it without first submitting to EPA a 90-day premanufacture notice, during which time the person may not manufacture the new chemical substance. If EPA has promulgated a testing rule under section 4 of TSCA, the delay period before manufacture might be significantly extended.

Were there no section 14 requirement in TSCA, EPA would publish a list of all chemical substances manufactured or processed in the United States for commercial purposes without provision for claiming confidentiality. The public would know all chemical substances to which it may be exposed and would be able to participate fully under sections 20 and 21 of TSCA. Any person proposing to manufacture a chemical substance would be able to look at the inventory and determine whether the chemical substance was an existing chemical substance with a commercial purpose. If the substance appeared on the list, there would be no premanufacture notification requirements under section 5(a)(1)(A). If the substance did not appear on the list, the person would know it was a "new chemical substance." The Agency could conduct its investigation of all chemical substances in open public forums. However, were EPA to publish all chemical substances reported to EPA on the inventory, some persons submitting the information would suffer competitive harm when the fact that certain chemical substances have a commercial purpose was published.

Were EPA to give full effect to section 14 and publish a list of only those chemical substances for which the fact of manufacture or processing for commercial purposes was not confidential, the public would have no information about those particular confidential chemical substances to which it may be exposed. The Agency would have to conduct its investigation of some chemical substances *in camera*. A manufacturer proposing to manufacture a chemical substance that did not appear on the list would not know whether the substance was a new chemical substance. Therefore, the manufacturer would be forced to give premanufacture notification under section 5(a)(1)(A). If, in fact, the chemical substance had been reported for the inventory list, and, therefore, was not a new chemical substance,

this new manufacturer would be placed at a competitive disadvantage by having to delay manufacture at least 90 days.

EPA has adopted the approach set out in § 710.7 of these regulations to balance the concerns of section 14 with those of sections 8(b) and 5(a). In choosing this approach, EPA looked to TSCA for guidance. It is clear that Congress intended section 5(a)(1)(A) premanufacture notification to apply only to chemical substances which are not currently manufactured for a commercial purpose. Congress created the section 8(b) inventory for the express purpose of determining this class of chemical substances. Congress did not seem to contemplate that the fact that certain chemical substances are manufactured or processed for commercial purposes would be claimed as confidential. Congress was clear in section 14 that confidentiality should be preserved to the maximum extent practicable without impairing the regulatory scheme of TSCA. The approach EPA has adopted preserves confidentiality to the maximum extent practicable while allowing the section 8(b) inventory to perform its regulatory function for purposes of section 5(a)(1)(A), premanufacture notification.

EPA will allow any manufacturer or processor submitting information to EPA under this rule to claim that a particular chemical substance should not be included on the inventory of chemical substances because the fact that the chemical substance is manufactured or processed for commercial purposes in the United States is a confidential trade secret. EPA will make a final confidentiality determination in accordance with the procedures in 40 CFR Part 2, Subpart B. If the fact that a particular chemical substance is manufactured or processed for a commercial purpose in the United States is confidential, a generic chemical name will be included in an appendix to the inventory; if it is not confidential, after 30 days notice to the submitter, the chemical identity will be included on the inventory. If any person reports a particular identity and does not claim it as confidential EPA will place the identity on the inventory.

Section 710.7(e) provides that a person claiming confidentiality for the specific chemical identity must provide a proposed generic chemical name to EPA. The proposed generic name must be only as generic as necessary to protect the identity of the particular chemical substance. Pursuant to § 710.7(f), EPA will review the proposed generic name. If the proposed generic name is not acceptable to EPA, EPA will consult with the submitter concerning alternative names. EPA may choose a name proposed by the submitter or a name proposed by EPA. In the latter case, EPA will notify the submitter 30 days in advance of publishing the final choice, during which time the submitter may seek a judicial remedy.

Placement of the generic name in the appendix to the inventory will serve two purposes. First, the public will know the generic types of confidential chemical substances to which it may be exposed. The public will be able to use this knowledge to participate in accordance with sections 20 and 21. Second, a manufacturer who is proposing to manufacture a substance not included on the inventory by name will be able to see whether the substance is described by one of the generic names. If it is not, it is a "new chemical substance," and the manufacturer must submit notices under section 5(a)(1)(A) at least 90 days prior to manufacture. If the substance does fall within one of the generic names, the manufacturer could come to EPA, show a bona fide intent to manufacture the substance, and be informed whether the specific proposed substance was included on the inventory. If it was, the manufac-

turer would be able to begin manufacture without delay. If it was not, it would be a "new chemical substance," and the manufacturer would have to submit notice under section 5 at least 90 days prior to manufacture. No person may manufacture a substance within a generic name unless EPA has notified the person that the particular substance is included in the inventory.

To determine whether or not such a manufacturer has a bona fide intent to manufacture the proposed chemical substance, EPA will require the manufacturer to submit a statement of present intent to manufacture the particular chemical substance, including a description of the research and development activities to date and the purpose of manufacture. In addition, EPA will require an elemental analysis, either an X-ray diffraction pattern of the substance (for inorganic substances) or a mass or alternative spectrum of the substance (for other substances), and any additional spectra or data, including a sample of the substance in its purest form, that may be required to resolve uncertainties with respect to the identity of the substance. At the time such an inquiry is received, EPA will contact the original submitter and ask for an elemental analysis and either a mass or alternative spectrum or an X-ray diffraction pattern of the substance. Further, additional spectra or data may be required to resolve uncertainties with respect to the identity of the substance. EPA may require a sample of the substance in its purest form for comparison with that submitted by the inquiring manufacturer. Section 710.7(e) provides that any person asserting a claim of confidentiality must agree to make such information available to EPA upon request and must agree that EPA may disclose the fact that the specific chemical substance is included on the inventory to a manufacturer with a bona fide intent to manufacture the substance. (Failure to so agree or to furnish requested data results in waiver of the claim of confidentiality.)

If EPA determines that the manufacturer has a bona fide intent to manufacture the substance, EPA will disclose whether the substance in question is on the inventory. EPA scientists will compare the technical data submitted by the inquirer with that prepared by the manufacturer of the confidential chemical substance to determine whether the data from both sources are sufficiently similar to be consistent with a presumption that the chemical substances are the same. If EPA determines that the manufacturer has not shown a bona fide intent to manufacture the substance, EPA will not disclose whether the substance is on the inventory. The manufacturer will then have the choice of supplying further information to EPA to show bona fide intent to manufacture the substance or of submitting premanufacture notification under section 5(a)(1)(A).

This approach will place some burden on manufacturers to come to EPA to show a bona fide intent to manufacture. However, this burden is less than the burden of section 5(a)(1)(A) premanufacture notification. Any manufacturer who does have a bona fide intent to manufacture a particular substance should know the information required to show that intent to EPA. This approach will discourage fishing expeditions by persons without a bona fide intent to manufacture and thereby protect trade secrets from disclosure to competitors. EPA does not view disclosure to a bona fide manufacturer to be a disclosure in violation of section 14. The trade secret that is being kept confidential is that the particular chemical substance is manufactured or processed for commercial purposes in the United States by anyone. If the inquiring manufacturer shows a bona fide intent to manufacture the particular substance, the manufacturer al-

ready knows that it can be manufactured for a commercial purpose. Telling the manufacturer that the substance is on the inventory does not reveal anything except that someone else already found a commercial purpose for the substance.

Maintaining specific chemical identities as confidential for purposes of the inventory has impacts beyond those on sections 8(b) and 5(a). It is conceivable that the Agency will decide to direct a section 4 testing rule to a confidential chemical, that the Agency will decide to promulgate a section 5(a)(2) significant new use rule on a confidential chemical, that the Agency will decide to promulgate a section 8 reporting rule on a confidential chemical, and that proceedings under section 20 and 21 of the Act may pertain to confidential chemicals. The Agency intends to honor the confidentiality of specific chemical identities to the extent practicable without impairing the Agency's ability to perform its duties under TSCA. This means that EPA may have to balance confidentiality with other TSCA needs at future times under other rules. TSCA section 14 (a) and (b) directs the Administrator to disclose information otherwise entitled to confidential treatment in certain circumstances. The Agency intends to rely on these authorities to the fullest extent provided by law.

A determination that an identity is confidential for purposes of the inventory may be reviewed if new facts suggest that confidential treatment is no longer appropriate.

Comment 94: Requiring substantiation at the time of submission of a claim that the identity of a chemical substance should not be placed on the inventory is overly burdensome. Such substantiation should only be required when necessary to respond to a Freedom of Information Act request.

Response: The Administrator disagrees with this comment. The requirement in TSCA section 8(b) that the Agency publish an inventory of chemical substances requires the Agency to make individual final determinations on the entitlement of the identity of a particular chemical substance to confidential treatment under the test of 5 U.S.C. 552(b)(4) before publication of the initial inventory. Under the procedures of 40 CFR Part 2, Subpart B, this determination is made on the basis of the substantiation of that claim provided by the person asserting the claim. In order for EPA to review, prior to publication of the initial inventory, all claims that the identity of a chemical substance is entitled to trade secret protection, substantiation of the claim must be submitted when the claim is asserted. Failure to submit substantiation of such a claim will be a waiver of the claim.

Comment 95: The statements for substantiating a claim for confidentiality on proposed Form C are too restrictive. A company must be allowed to state for itself the basis of its claim of confidentiality.

Response: The Administrator agrees with this comment. Any submitter claiming that the identity of a particular chemical substance should not be included on the inventory must substantiate that claim. The substantiation must be in the form of a letter attached to Form C stating the submitter's basis for its claim of confidentiality and addressing a list of questions specified in the Form C instructions. The burden for substantiating a claim that the particular chemical identity should not appear in the inventory is greater than that for substantiating other confidentiality claims under the inventory because of the increased burden that will be placed on the public and future manufacturers under section 5(a) in not knowing all of the specific chemical identi-

ties reported for the inventory. Accordingly, companies should be very careful in claiming that specific identities are entitled to confidential treatment.

Comment 96: EPA should accept the generic chemical name is too broad or misleading, request the submitter to modify the generic name. EPA should not substitute its judgment. EPA should not substitute its judgment for that of the submitter.

Response: The Administrator disagrees with this comment. Submitters will have an interest in submitting the broadest generic names possible. Since EPA is balancing competing considerations of confidentiality, the public's right to know, and the interests of manufacturers under section 5(a), EPA must take an active role in choosing a generic name that is only generic enough to protect the trade secret identity.

If EPA agrees with the generic chemical name proposed by the submitter and the chemical identity has been found to be confidential for purposes of the inventory, EPA will place the proposed generic name in an appendix to the inventory. If EPA believes that the generic name is too general so that it will not serve the purpose of informing the public and future manufacturers under section 5(a), EPA will consult with the submitter concerning more restrictive names. If EPA and the submitter are unable to agree on the generic name, EPA will choose a generic name, notify the submitter of the choice at least 30 days before inclusion on the inventory. The submitter may seek a judicial remedy under section 14. Unless a court intervenes, after the end of the notice period, EPA will place the generic name on the list.

Link of Company Name to Chemical Identity

Comment 97: The fact that a certain company manufactures a particular chemical substance may be a confidential trade secret. EPA should not publish company names on the inventory.

Response: The Administrator agrees with this comment. Section 710.7(a) permits a manufacturer, importer, or processor to claim that the link between the name of the manufacturer, importer, or processor with a particular chemical substance is entitled to confidential treatment. The 8(b) inventory will consist only of a list of chemical substances reported to EPA. It will not include any information concerning which companies reported the chemical substances. A claim that a particular chemical identity should not appear on the inventory (see comment 92) should not be made if the only confidential trade secret is the link between the company name and chemical identity.

If a claim of confidentiality is asserted regarding the link of company name with a particular chemical substance, it will be disclosed by EPA only to the extent permitted by, and by means of the procedures set forth in 40 CFR Part 2, Subpart B.

Production data

Comment 98: Site specific production data may be a confidential trade secret.

Response: Section 710.7(a) recognizes that production data may be entitled to confidential treatment and permits persons reporting production volumes to the Agency to assert a claim of confidentiality. Section 710.5(d)(4) of these final regulations requires companies to report broad production ranges, rather than the more specific production volumes which would have been required by the August 2, 1977 proposed rules. This should eliminate the need for many claims of confidentiality.

Comment 99: Does EPA plan to publish aggregates of data from the inventory, especially confidential data? If so, in what way will EPA protect the confidential data?

Response: EPA is considering alternative ways of publishing aggregates of production and other data submitted for chemical substances. However, before EPA publishes any aggregation that includes data that have been claimed as confidential, EPA will develop aggregation procedures designed to protect the confidentiality of the underlying data and will publish these procedures for public comment.

National Security Information

Comment 100: Some information required by these regulations may be entitled to confidential treatment because of national security reasons. How will EPA handle assertions of confidentiality on these grounds?

Response: Section 22 of TSCA states that EPA "shall waive compliance with any provision of this Act upon a request and determination by the President that the requested waiver is necessary in the interest of national defense." The President has not requested that any waiver be granted with regard to the inventory regulations. Accordingly, any person subject to the reporting requirements of these regulations must report any substance subject to these regulations even if that substance is being made for national defense purposes. Production for national defense purposes is a commercial purpose as defined in these regulations. Any person reporting under these regulations must report all information required to be reported concerning sites, production, etc. regardless of whether that information relates to national defense.

If a person required to report under these regulations would be reporting information that is or may be classified as national defense information under Executive Order 11652, that person should not report to CA5. Instead, the person must contact Kenneth Olsen, Office of Toxic Substances, EPA, 401 M Street, SW., Washington, D.C. 20460, by letter stating that the person may be required to report classified information to EPA under these regulations. Do not report the classified information to EPA at that time. EPA will send the person a letter with specific instructions how to proceed. This will include forwarding the information to the particular systems program office that is managing the particular work involved. The systems program office will examine the specific information and mark it with the appropriate classification. The information will then be sent to EPA where it will be kept in a special system separate from the remainder of the inventory information. EPA will have an office with personnel authorized to receive and use classified information.

Please note, if the information in question is also considered to be confidential business information by the person submitting it, that person must assert all claims of business confidentiality at the time the information is submitted to EPA in accordance with these regulations and the instructions on the forms.

Freedom of Information Requests

Comment 101: How will EPA handle Freedom of Information Act requests for the confidential information submitted under these regulations?

Response: EPA will allow submitters to claim any item of information submitted to EPA under this rule as confidential. The reporting forms are designed to allow all confidentiality claims to be made by checking boxes on the forms. In addition, the certification statement has been written to allow a submitter to substantiate all claims of confidentiality, except chemical identity, on the reporting form. By using this approach, EPA intends to minimize the need to go back

to specific submitters to require them to substantiate confidentiality claims. This will enable EPA to deal more effectively with the anticipated large volume of Freedom of Information Act requests that will be received under TSCA.

All information submitted under these rules will be computerized. All confidential information (except confidential identities) will be specially coded if a claim of confidentiality was made and substantiated at the time of submission.

When EPA receives FOIA requests, EPA will prepare a computer print out of the non-confidential information requested; that information will be disclosed to the requester. The computer will then print out the requested confidential information. The requester will receive an initial denial of the request for any confidential information in accordance with the procedures in 40 CFR Part 2, Subpart B. EPA will then make a final confidentiality determination, inform the requester of the decision, give 30 days notice to the submitter if the determination is that the information is not entitled to confidential treatment, and then disclose any non-confidential information.

EPA will not have computer access capability until at least 6 to 8 months after the end of the initial reporting period. During that period the Agency will be processing submitted information. The actual forms submitted to EPA will not be filed in a retrievable form. If EPA receives FOIA requests prior to the end of the processing period it will be virtually impossible to search for the requested information. Consequently, EPA requests that FOIA requesters refrain from making FOIA requests for inventory information until the end of the processing period.

In some cases, when responding to FOIA requests, EPA will be forced to give uninformative denials. If a requester asks a question in such a way that to answer the request would reveal confidential information, EPA will answer the request in the following fashion: "Your request is denied either because the records you request are entitled to confidential treatment under 5 U.S.C. 552(b) (4) and EPA may not disclose them under section 14 of TSCA, or because no such records exist." The requester will have a final EPA denial and will be able to go to a Federal district court to seek further review. The confidential information will be protected, pending this review.

Confidentiality Procedures and Security

Comment 102: How will EPA determine the entitlement of information to confidential treatment; what procedures will it follow to ensure that confidential information is not disclosed?

Response: The Agency's business confidentiality regulations are contained at 40 CFR Part 2, Subpart B. These regulations will be amended to take into account specific modifications required by TSCA section 14, such as the extension of the notice period to 30 days. The basic approach for determining confidentiality will not change.

EPA has established a Task Force to recommend procedures to the Administrator to provide for the security of confidential information submitted to EPA under TSCA. The Task Force will work quickly so that EPA will have procedures adopted by April 30, 1978, the end of the inventory reporting period. The Task Force will hold several public meetings and will publish proposals for public comment. The final security procedures will be published. A more detailed discussion of the work of the Task Force appeared in

the **FEDERAL REGISTER**, 42 FR 57984, November 7, 1977.

Access to Confidential Information by States
Comment 103: EPA should allow access to confidential information by the states.

Response: EPA does not have general authority to disclose confidential TSCA information to the States. Section 14(a) lists the parties to whom confidential information may be disclosed. In certain circumstances, EPA may disclose confidential in-

formation to other Federal agencies, to TSCA contractors, when relevant to a proceeding under TSCA, or when necessary to protect health or the environment against an unreasonable risk of injury. Accordingly, confidential information may only be disclosed to a State if the State is an EPA contractor, if the State is a party to a TSCA proceeding, or when necessary to protect health or the environment from an unreasonable risk of injury.

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

Approved under the (40 CFR 170)

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
(Section 9(a) and (b) Toxic Substances Control Act 15 USC 2607)

FORM A

I. CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief: (1) the chemical substances identified herein have been manufactured for or imported for a commercial purpose since January 1, 1973, and also for the inventory (40 CFR 170); (2) all information entered on this form is complete and accurate and (3) the confidentiality statement on the back of this form are true as to that information for which I have entered 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 disclose any information reporting here.

Name _____ Date _____ Manufacturer, Firm or Person _____

II. CORPORATION

III. PLANT SITE NAME/ADDRESS

Name _____

Address _____

City _____ State _____ Zip _____

County _____

IV. PRINCIPAL TECHNICAL CONTACT(S)

NAME _____ TITLE _____

V. TSCA CANDIDATE LIST CHEMICAL SUBSTANCES (LIST ADDITIONAL SUBSTANCES ON SEPARATE FORMS)

NUMBER	CAS REGISTRY NUMBER (INCLUDE HYPHENS)	EPA CODE DESIGNATION (INCLUDE HYPHENS)	PRODUCTION RANGE	ACTIVITY	SRL LIMITED	CONFIDENTIALITY CODE						NUMBER
						1	2	3	4	5	6	
1												1
2												2
3												3
4												4
5												5
6												6
7												7
8												8
9												9
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25												25
26												26

SAMPLE Do Not Use

EPA FILE COPY

RULES AND REGULATIONS

EPA FORM 360 (REV. 6-73) 107-36-730

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

Approved EPA Form No. 100-1-77001

U. S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8(a) and (b) Toxic Substances Control Act 15 USC 2607)										FORM B
I. CERTIFICATION (Statement): I hereby certify that, to the best of my knowledge and belief: (1) the chemical substance as described below have been manufactured or imported for a commercial purpose since January 1, 1973 and are to be reported for the inventory; (2) all information entered on this form is complete and accurate; and (3) the confidentiality exemptions on the back of this form are not to be used for 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 _____ Title/Type of Person _____										
II. PLANT SITE NAME/ADDRESS Name _____ Address _____ City _____ State _____ County _____ ZIP _____ DUN & BRADSTREET NO. _____										
IV. PRINCIPAL TECHNICAL CONTACT(S)										
NUMBER										
BPA USE ONLY										
(I) PLANT SITE										
(II) CORPORATION										
(III) PRODUCTION										
(IV) SITE LIMITED										
(V) IMPORT										
(VI) MANUFACTURE										
SITE LIMITED										
IMPORT										
MANUFACTURE										
PRODUCTION RANGE										
SPECIFIC CHEMICAL NAME (SEPARATE MULTIPLE NAMES WITH A SEMI-COLON)										
CAS REGISTRY NUMBER (INCLUDE HYPHENS)										
NUMBER										

EPA FORM 360 (REV. 6-73) 107-36-730

EPA FILE COPY

RULES AND REGULATIONS

64595

U.S. ENVIRONMENTAL PROTECTION AGENCY - 107-10-70

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

Form EPA 710-1
10-7-70

U. S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 6(a) and (b) Toxic Substances Control Act 15 USC 2607)

FORM
C

I, CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief, (1) the chemical substance identified below has been manufactured or imported for a commercial purpose within the meaning of TSCA, and (2) the information contained on this form is complete and accurate, and (3) the confidentiality statements on 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 _____ Title _____ Date _____
Foreign Supplier Signature _____ Date _____

III. PLANT SITE NAME/ADDRESS		IV. PRINCIPAL TECHNICAL CONTACT(S)	
NAME			
ADDRESS			
CITY	STATE		
COUNTY	ZIP		
DUM & BLAINE STREET NO.			

V. CHEMICAL SUBSTANCE WHERE THE IDENTITY IS CONFIDENTIAL (AND/OR) THE CAS REGISTRY NUMBER IS UNKNOWN	NUMBER	DATE	IN THE SPACE PROVIDED BELOW, PROVIDE STRUCTURAL INFORMATION, MOLECULAR FORMULA, AND OTHER SUPPLEMENTAL INFORMATION TO AID IN THE SPECIFIC IDENTIFICATION OF THE CHEMICAL SUBSTANCE. SEE ATTACHED SHEETS (PARTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 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1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 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RULES AND REGULATIONS

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IMPORTANT: Before completing this form, carefully read the EPA publication "Importing for the Chemical Substances Inventory". That booklet contains instructions for properly completing this form.

Approved OMB Form No.
100-170-01

U. S. ENVIRONMENTAL PROTECTION AGENCY VOLUNTARY PRODUCT TRADEMARK REPORT (IN CONJUNCTION WITH THE TOXIC SUBSTANCES CONTROL ACT INVENTORY REPORTING)		FORM D																																																																																																																																																	
I. CERTIFICATION STATEMENT: I hereby certify that, to the best of my knowledge and belief, each trademark listed below identifies a product which I manufacture or import and that all chemical substances that are permitted to be reported for this inventory (40 CFR 710.10) have been reported either by me or by others. 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 disclose any information reported here.																																																																																																																																																			
II. CORPORATE NAME/ADDRESS NAME _____ ADDRESS _____ CITY _____ STATE _____ COUNTRY _____ ZIP _____ CORPORATE DUN & BRADSTREET NO. _____																																																																																																																																																			
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[FR Doc.77-36420 Filed 12-19-77;9:41 am]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

INDUSTRY ASSISTANCE OFFICE

OFFICE OF TOXIC SUBSTANCES

The purpose of this letter is to alert you to the importance of the material contained in this packet and the need to read the material carefully.

If you are a manufacturer or importer of chemical substances, this packet is of special importance, because it includes the Toxic Substances Control Act (TSCA) inventory reporting forms (A,B,C,D), an instruction manual on reporting and instructions on obtaining additional forms (see the page in this packet headed "Forms, Forms, Forms").

Although under TSCA, action is required, at this time, only by manufacturers and importers of chemical substances, other recipients should find the packet educational.

Now check your packet. It should include the following:

1. The FEDERAL REGISTER containing the final TSCA Inventory Reporting Regulations and Significant Comments and Responses.
2. Questions and Answers about inventory reporting.
3. Information on how to get more Forms (with a postal card for your convenience).
- 4.* One set of Inventory Reporting Forms (A,B,C,D).
- 5.* Instruction manual on reporting.

* not included in all packets

If, after carefully reading this packet, you have questions about inventory reporting, call us (800-424-9065).

Sincerely yours,

John B. Ritch, Jr.
John B. Ritch, Jr.
Director

FORMS, FORMS, FORMS

● NEED INVENTORY REPORTING FORMS? HERE ARE FOUR FAST WAYS OF GETTING THEM:

1. FILL OUT AND MAIL THE SPECIALLY PRINTED POSTAL CARD THAT YOU WILL FIND IN THIS PACKAGE.
2. CALL THIS TOLL-FREE NUMBER (800-424-9065) AND TELL US WHICH FORMS AND HOW MANY YOU NEED. IF CALLING FROM WASHINGTON, D.C.: 554-1404
3. CALL OR VISIT YOUR REGIONAL OFFICE OF TOXIC SUBSTANCES (OTS) OFFICE (SEE THE BOX BELOW).
4. WRITE AND TELL US AT OTS HEADQUARTERS WHICH FORMS AND HOW MANY YOU NEED. (IND. ASST. OFFICE, OFFICE OF TOXIC SUBSTANCES, TS-799, USEPA, WASHINGTON, D.C. 20460.

REGION I

Mr. Robert Dangel*
John F. Kennedy Federal Building
Boston, Massachusetts 02203
617 - 223-0585

REGION VI

Dr. Larry Thomas
Assistant TSCA Coordinator
First International Building
1201 Elm Street
Dallas, Texas 75270
214 - 767-2734

REGION II

Mr. William Librizzi*
Raritan Depot, Building 209
Edison, New Jersey 08817
201 - 321-6673

REGION VII

Dr. Maxwell Wilcomb*
1735 Baltimore Avenue
Kansas City, Missouri 64108
816 - 374-3036

REGION III

Mr. Edward Cohen*
Curtis Building
6th & Walnut Streets
Philadelphia, PA 19106
215 - 597-7668

REGION VIII

Mr. Ralph Larsen*
1860 Lincoln Street
Denver, Colorado 80295
303 - 837-3926

REGION IV

Mr. Ralph W. Jennings, Rm. 345
Toxic Substances Section Chief
Air & Hazardous Materials Div.
345 Courtland Street, N.E.
Atlanta, Georgia 30308
404 - 881-3864

REGION IX

Mr. Jerry Gavin*, Rm. 215
215 Fremont Street
San Francisco, California 94105
415 - 556-3352

REGION V

Mr. Karl E. Bremer*
230 South Dearborn Street
Chicago, Illinois 60604
312 - 353-2291

REGION X

Dr. James Evert*
1200 6th Avenue
Seattle, Washington 98101
206 - 442-1090

*Toxic Substances Coordinator

FREE!

One-Day Compliance Training

Feb. 28-Mar. 17
U.S. EPA Toxic Substances Control Act
Seminars on TSCA Inventory

9:30-1

YOUR REPORTING REQUIREMENTS
• REPORTABLE & EXCLUDED
SUBSTANCES • LEARN-BY-DOING
• LOTS OF YOUR Q&A

2-3:30

SMALL-GROUPS • YOUR TOPICS
• INDIVIDUAL CONSULTATIONS
• TRADE ASS'N REPS AVAILABLE

Telephone to Pre-Register!

U.S. CHAMBER OF COMMERCE REGIONAL COMMUNICATIONS # BELOW

NORTHEASTERN AREA: 212-557-9898

2/28 BOSTON Boston-Waltham Holiday Inn,
455 Totten Pond Rd.
off Rte. 128, exit 48E.

3/1 NEW YORK New York-Coliseum Holiday Inn,
440 W. 57th St., mid-Manhattan
between 9th and 10th Aves.

3/2 ALBANY Albany-Airport-Latham Holiday Inn,
U.S. 9, exit 24
from NYS Thruway.

3/3 ROCHESTER Rochester-Airport Holiday Inn,
911 Brooks Ave.,
off I-490, exit 47.

3/7-8 NEWARK Newark-International Airport Holiday Inn,
160 Holiday Plaza,
exit 14 from NJ Tpk.

3/9 PHILADELPHIA Philadelphia-City Line Holiday Inn,
Rte. 1 and I-76 City Ave. exit or
north from Amtrak 30th St. Sta.

3/10 HARRISBURG Holiday Inn Town,
2nd and Chestnut Sts.,
2nd St. exit from I-83.

NORTH CENTRAL AREA: 312-956-4930

3/14 PITTSBURGH Pitts.-Allegheny Valley Holiday Inn,
180 Gamma Dr. at R.I.D.C. Park,
Allegheny Expwy. off I-80 and I-76.

3/15 CLEVELAND Cleveland-Independence Holiday Inn,
6001 W. Rockside Rd.,
exit off I-77.

3/16 CINCINNATI Cincinnati-Riverfront Holiday Inn,
600 W. 3rd St., Covington,
on I-75 at 5th St. exit.

3/17 INDIANAPOLIS Ind.-Speedway-N.W. Holiday Inn,
6330 Debonair La.,
Jct. I-465, I-74 and U.S. 136.

2/28-CHICAGO Chicago-O'Hare Airport Holiday Inn,
3801 N. Mannheim Rd.,
Jct. I-294, U.S. 45 and Rte. 19.

3/2 DETROIT Detroit-Farmington Hills Holiday Inn,
38123 W. 10 Mile Rd. at I-96 and
Grand River Ave., off I-275.

3/3 MINNEAPOLIS St. Paul-State Capitol Holiday Inn,
161 St. Anthony St., opp. State
Capitol, Marion St. exit from I-94.

SOUTH CENTRAL AREA: 214-387-0404

3/2 DALLAS D/FW Airport-N. Highway Holiday Inn,
Rte. 114 at Esters R., north entrance
to D/FW Airport off I-635.

3/7 KANSAS CITY Kansas City-City Center Holiday Inn,
1301 Wyandotte St.,
Jct. I-70, U.S. 71 & Alt. 69.

3/8 ST. LOUIS St. Louis-North Holiday Inn,
4545 N. Lindbergh Blvd., on U.S. 140
at I-70, 3 mi. E. of I-270.

3/8-10 HOUSTON Houston-NASA Holiday Inn,
1300 NASA Blvd., on Rte. 528
off I-45 (NASA exit) or Rte. 146.

3/11 BATON ROUGE Baton-Rouge-South Holiday Inn,
9940 Airline St.,
Jct. U.S. 61 and I-12.

SOUTHEASTERN AREA: 404-393-0140

3/3 ORLANDO Orlando-Altamonte Springs Holiday Inn,
I-4 and Rte. 438.

3/14 ATLANTA Atlanta-Airport Holiday Inn,
1380 Virginia Ave.,
off I-85 S.

3/15 NASHVILLE Nashville-Vanderbilt Holiday Inn,
3613 West End Ave., on U.S. 70S;
off I-40 at Broadway (I-40) exit.

3/16 WINSTON-SALEM Win.-Sal. Coliseum (North) Holiday Inn,
N. Cherry-Marshall Expressway.

WESTERN AREA: 408-275-8110

2/28-LOS ANGELES Buena Park (Disneyland) Holiday Inn,
7000 Beach Blvd., Beach Blvd. exit
from Santa Ana or Riverside Frwy.

3/7 LOS ANGELES Laguna Hills Holiday Inn,
25205 La Paz Rd., Jct. I-5 and
I-405 south of Orange Co. airport.

3/8 SAN JOSE San J.-Park Center Plaza Holiday Inn,
282 Almaden Blvd.
at W. San Carlos Ave.

3/9 OAKLAND Marriott Motor Inn-Berkeley,
on Rte. 17 and I-80 at
University Ave. exit.

3/10 PORTLAND Cosmopolitan Airtel,
6221 N.E. 82nd Ave.,
off Columbia Blvd. and 80th Ave.

TS-799
UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE: \$300

POSTAGE AND FEES PAID
U.S. ENVIRONMENTAL
PROTECTION AGENCY
EPA-335



U.S. Environmental Protection Agency
Director, Industry Assistance Office
Office of Toxic Substances (TS-799)
Washington, D C 20460

My firm needs the following Toxic Substances Control inventory reporting forms in the indicated quantities.

FORM A	QUANTITY		FORM C	QUANTITY
FORM B	QUANTITY		FORM D	QUANTITY

Firm Name: _____

Street Address: _____

State & Zip Code: _____

ATTENTION: _____ Signature: _____

☐ Please check here if you did not receive but would like to have a copy of the Candidate List.