

# Sunshine Act Meetings

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Tuesday, March 12, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### 1

#### FEDERAL COMMUNICATIONS COMMISSION

March 7, 1985.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 14, 1985, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

#### Agenda, Item No., and Subject

**Common Carrier—1—Title:** Memorandum Opinion and Order on Reconsideration in the Cellular Lottery Proceeding, CC Docket 83-1096. **Summary:** The Commission will consider the petitions for reconsideration filed against the Report and Order (Cellular Lottery Selection, 55 RR 2d 8) in this proceeding.

**Common Carrier—2—Title:** Memorandum Opinion and Order, Reconsideration of the Accounting Treatment for AT&T's Judgment and Litigation Expenses from the Litton Systems Antitrust Lawsuit. **Summary:** The Commission will consider petitions for reconsideration challenging the accounting treatment for AT&T's judgment and litigation costs from the Litton Systems antitrust lawsuit.

**Common Carrier—3—Title:** Notice of Proposed Rulemaking to amend Part 31 Uniform System of Accounts to account for judgments and other costs associated with antitrust lawsuits, and conforming amendments to the Annual Report Form M. **Summary:** The Commission will consider whether to adopt a Notice of Proposed Rulemaking to propose rule changes that outline the accounting treatment telephone companies shall give judgments and other costs associated with antitrust lawsuits.

**Common Carrier—4—Title:** "Lottery ticket" cellular applications in Columbia, SC and San Juan, PR. **Summary:** The Commission will consider whether to adopt By Direction letters returning certain cellular applications filed for Columbia, South Carolina and San Juan, Puerto Rico as unacceptable for filing.

**Common Carrier—5—Title:** Inquiry into the policies to be followed in the authorization of common carrier facilities to meet Pacific telecommunications needs during the period 1981-1995 (CC Docket No. 81-343).

**Summary:** The Commission will consider adopting a Further Notice of Proposed Rulemaking in CC Docket No. 81-343.

**Mass Media—1—Title:** License renewal and assignment/transfer of control applications for Stations WHAT and WWDB (FM), Philadelphia, Pennsylvania. **Summary:** The Commission will consider a Memorandum Opinion and Order addressing petitions to deny alleging employment discrimination, illegal lottery broadcasts and other rule violations.

**Mass Media—2—Title:** Television Waveform Standards Concerning Horizontal and Vertical Blanking Intervals. **Summary:** In this Report and Order the Commission will consider amending its Rules that specify the maximum time durations for the horizontal and vertical blanking intervals transmitted as part of the video signal by television broadcast stations.

**Mass Media—3—Title:** Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments. **Summary:** The Commission will consider in this Second Report and Order whether any special consideration should be given to daytime-only licensees when they apply for new FM allotments. We will also consider procedures for accepting applications on the recent channel allotments and for new petitions to further amend the FM Table of Allotments.

**Mass Media—4—Title:** In the Matter of Amendment to Sections 73.3572 and 73.3573 Relating to Processing of Commercial FM and TV Broadcast Applications. **Summary:** The Commission will consider whether to adopt proposed rule changes for the processing of commercial TV and FM applications for new or expanded service. The proposed changes would implement a window filing—first come/first serve processing system.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

**William J. Tricarico,**  
Secretary.

[FR Doc. 85-5908 Filed 3-8-85; 10:35 am]

**BILLING CODE 6712-01-M**

### 2

#### FEDERAL MARITIME COMMISSION

**TIME AND DATE:** 10:00 a.m., March 11, 1985.

**PLACE:** Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

**STATUS:** Closed.

**MATTER TO BE CONSIDERED:** Agreement No. 202-010689: Actions of the Transpacific Westbound Rate Agreement.

**CONTACT PERSON FOR MORE INFORMATION:** Bruce A. Dombrowski, Assistant Secretary, (202) 523-5725. Bruce A. Dombrowski, Assistant Secretary.

[FR Doc. 85-5931 Filed 3-8-85; 11:21 am]

**BILLING CODE 6730-01-M**

### 3

#### INTERNATIONAL TRADE COMMISSION

[USITC SE-85-13A]

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** 50 Fed. Reg. 7869 (2/26/85).

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 11:00 a.m., Wednesday, March 13, 1985.

**CHANGES IN THE MEETING:** 5. Investigation 731-TA-240, 241 [Preliminary] Correct country of origin to read Republic of Korea instead of Republic of China.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523-0161.

[FR Doc. 85-5993 Filed 3-8-85; 3:45 pm]

**BILLING CODE 7020-02-M**

### 4

#### INTERNATIONAL TRADE COMMISSION

[USITC SE-85-14]

**TIME AND DATE:** Tuesday, March 19, 1985, at 2:00 p.m.

**PLACE:** Room 117, 701 E Street, NW., Washington, D.C. 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints, (a) Porch, Patio and Lawn Gliders—Docket No. 1163.
5. Investigation 731-TA-242 [Preliminary] [Tapered tubular steel transmission structures from the Republic of Korea]—briefing and vote.
6. Investigation 337-TA-181 (Certain Meat Deboning Machines)—briefing and vote.
7. Any items left over from previous agenda.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523-0161.

[FR Doc. 85-5994 Filed 3-8-85; 3:45 pm]

**BILLING CODE 7020-02-M**

5

**NATIONAL TRANSPORTATION SAFETY BOARD**

**TIME AND DATE:** 9 a.m., Tuesday, March 19, 1985.

**PLACE:** NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. *Aircraft Accident Report: Zantop International Airlines, Inc., Lockheed L188 Electra, N5523, Chalkhill, Pennsylvania, May 30, 1984.*

2. *Hazardous Materials Accident Report: Release of Hazardous Waste Acids from a Cargo Tank Truck at Orange County, Florida, on March 6, 1984.*

3. *Railroad Accident Report: Derailment of Seaboard System Railroad Freight Train FERHL at Marshville, North Carolina, April 10, 1984.*

**CONTACT PERSON FOR MORE INFORMATION:** Sharon Flemming (202) 382-6525.

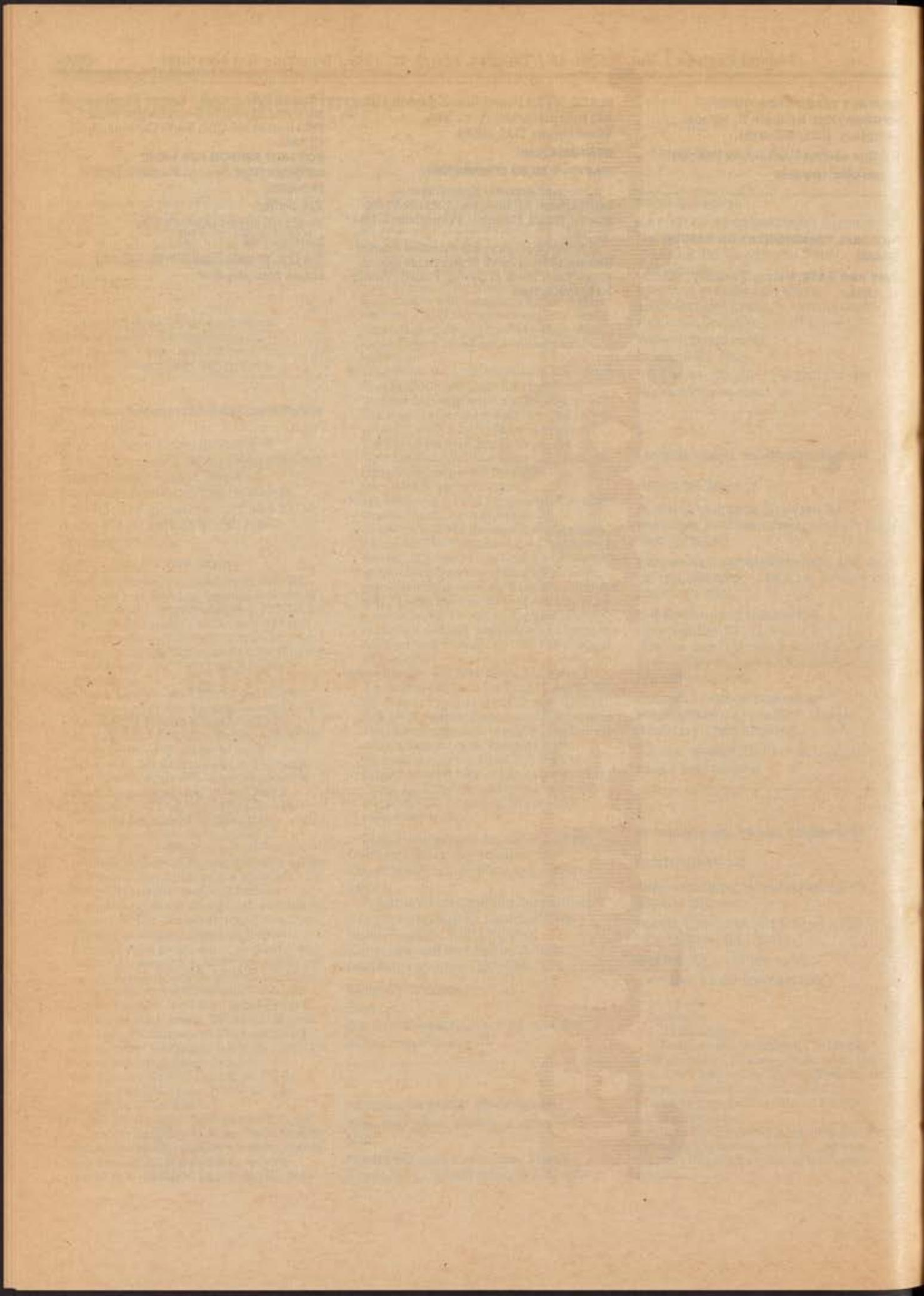
**Ray Smith,**

*Federal Register Liaison Officer.*

March 8, 1985.

[FR Doc. 85-5982 Filed 3-8-85; 2:27 pm]

**BILLING CODE 7533-01-M**



# federal register

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Tuesday  
March 12, 1985

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**Part II**

## **Environmental Protection Agency**

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40 CFR Part 710

Partial Updating of TSCA Inventory Data  
Base; Production and Site Reports;  
Proposed Rule

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 710

[OPTS-82015; TSH-FRL 2710-4]

#### Partial Updating of TSCA Inventory Data Base; Production and Site Reports

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Under the authority of section 8(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a), EPA proposes to require manufacturers and importers of certain chemical substances included on the TSCA Chemical Substances Inventory to report current data on the production volume, plant site, and site-limited status of the substances. EPA will use the information collected under this rule to update the Inventory data base and to support activities associated with the implementation of TSCA. This action would not affect the status of chemical substances listed on the Inventory. EPA is requesting comments on this proposed rule.

**DATE:** Comments must be received by May 13, 1985.

**ADDRESSES:** Comments should be forwarded to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M Street SW., Washington D.C. 20460.

Comments must be filed in triplicate and must bear the identifying notation (OPTS-82015). All written comments filed pursuant to this notice, as well as the rulemaking record, will be available for reviewing and copying in Rm. 107, East Tower, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday except legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M Street SW., Washington, D.C. 20460, toll free: [800-424-9065], in Washington, D.C.: [554-1404], outside the U.S.A.: [Operator-202 554-1404].

#### SUPPLEMENTARY INFORMATION:

##### I. Authority

The Agency is proposing this rule under section 8(a) of TSCA which authorizes the Administrator of EPA to promulgate rules under which manufacturers, importers, and processors of chemical substances must submit such information as the

Administrator may reasonably require. Failure to comply fully with any provision of this rule would be a violation of section 15 of TSCA and would subject the violator to penalties of TSCA sections 16 and 17.

It is proposed that this rule be promulgated as an amendment to 40 CFR Part 710 which currently contains the Inventory Reporting Regulations. This amendment would designate existing §§ 710.1 through 710.8 as Subpart A and add a new Subpart B.

##### II. Summary of the Rule

EPA is proposing to require manufacturers and importers to report current data on the production volume, plant site, and site-limited status (i.e., whether a chemical substance is manufactured and processed only within a plant site and is not distributed for commercial purposes as a substance or as part of a mixture or article outside the plant site) for certain chemical substances included on the TSCA Chemical Substances Inventory. For purposes of this rule and preamble, the term "manufacturer" includes importer, unless otherwise specified. A person would be considered to be a manufacturer subject to this rule if that person has manufactured or imported a reportable substance in the United States at any time during that person's most recent complete corporate fiscal year preceding the effective date of a relevant reporting period under this rule.

This rule requires both initial reporting and subsequent reporting. During the initial reporting period, every manufacturer of a chemical substance covered by this rule, unless otherwise exempt, would be required to report on every such substance for each plant site. After the initial reporting, reporting would only be required every other year if a reportable event has occurred. Reportable events reflect what EPA considers as significant changes in production volume or site-limited status of a reportable substance. Persons who begin manufacture or import of a reportable substance at a particular plant site after the initial reporting period would be required to submit an initial report in the first subsequent reporting period.

The substances covered by this rule would include those that were initially reported for the Inventory, as well as substances added to the inventory following TSCA section 5(a) premanufacture notification (PMN) review and the Agency's receipt of a notice of commencement of manufacture or import. EPA proposes that four categories of substances, though on the Inventory, be specifically excluded from

this rule. These excluded substances are those that are identified as polymers, inorganic substances, microorganisms, and naturally occurring chemical substances, as described under § 710.4(b) of the Inventory Reporting Regulations. Low-volume substances, i.e., substances with an annual site-specific production volume (or total amount imported) of less than 10,000 pounds (4,540 kilograms), will generally also be excluded from this rule.

In addition to the proposed exclusions of substances, EPA proposes that two categories of persons be exempt from all reporting and recordkeeping requirements: Small manufacturers and persons manufacturing substances in limited circumstances.

The information reported under this rule would include data on chemical identity, plant site, annual production volume, and site-limited status of a reportable substance. For each submission, EPA would also require the name, address, and telephone number of a person who can answer technical questions related to the submission. This information would be submitted on EPA-designated reporting forms. Persons subject to this rule would be required to maintain records that support the information in their submissions or that document a decision not to report. Such records would be kept for 5 years. The format for such recordkeeping would be left up to the individual manufacturer.

##### III. Background

###### A. Establishment of Inventory Data Base

Section 8(b) of TSCA requires the establishment and maintenance of an Inventory of chemical substances in United States commerce. To meet this requirement, EPA promulgated the Inventory Reporting Regulations in December 1977. The regulations resulted in the compilation of both the Inventory of Chemical Substances in Commerce and the Inventory data base.

The Inventory of Chemical Substances in Commerce is now maintained by EPA in the Agency's Master Inventory File which includes approximately 60,000 substances originally reported for the Inventory and over 1,500 substances which have completed PMN review under section 5(a) of TSCA and for which a notice of commencement of manufacture or import has been received by EPA.

The Inventory data base compiled by EPA currently contains only 1977 production information on the approximately 60,000 chemical

substances originally reported for the Inventory, including:

1. Chemical identity data including Chemical Abstracts Service (CAS) Preferred or Index Names, CAS Registry Numbers, synonyms, and, wherever available, molecular formulas.
2. 1977 manufacturing plant site name and address for each firm that reported in 1977 as manufacturers of one or more of the 60,000 substances originally reported for the Inventory.
3. 1977 production range for each chemical substance produced by each reporting plant site.
4. 1977 manufacturing activity, i.e., whether a submitter was a manufacturer, an importer, or a processor.
5. Whether the substance was site-limited in 1977.

#### B. Uses of Inventory Data Base

The production volume, plant site, and site-limited status information contained in the Inventory data base have been used by EPA to support numerous TSCA activities. To implement TSCA effectively, EPA requires current knowledge of where and in what quantity chemical substances on the Inventory are manufactured. This information supports the Agency's investigations of health and environmental effects and commercial status of chemical substances and the development of regulations under TSCA.

Production volume information is an important factor in selecting chemical substances for attention because it gives preliminary indications of the potential for human and environmental exposure. In general, EPA needs production data to set priorities for further investigation, to perform first-level screening of chemical substances for testing under TSCA section 4, to estimate, along with other data, the potential for human and environmental exposure to specific substances, to support the implementation of various TSCA regulations, and to perform economic impact analyses for potential TSCA regulations.

EPA uses plant site data to identify and communicate with manufacturers and to estimate the extent and location of potential exposure. Information on whether a substance is site-limited is also used by EPA in estimating exposure. A site-limited substance is presumed to have a lower exposure potential than a substance distributed outside the manufacturing plant site.

The nonconfidential data in the Inventory data base have been used for purposes other than TSCA implementation. For example, the National Toxicology Program (NTP)

uses the production data as a tool in screening chemical substances for testing and the plant site data to identify and communicate with manufacturers. The EPA Office of Solid Waste and Emergency Response has used the data base to identify manufacturers of various chemical substances under study and to estimate amounts produced. EPA Headquarters and Regional Offices use the nonconfidential data to respond to inquiries from State governments, industry, and the public, and to support TSCA compliance monitoring activities.

A more detailed discussion of the various uses of Inventory data can be found in a supporting document included in the rulemaking record for this rule.

#### IV. Need for Updating Inventory Data Base

Data proposed to be gathered under this rule would be used by EPA to update a portion of the Inventory data base. EPA needs an accurate and readily available source for basic information for a significant number of the substances listed on the Inventory. EPA has not been able to identify an alternate data source that can provide the Agency with adequate information in an accurate, complete, and cost-effective manner.

This rule would also enable EPA to obtain current production volume information for certain substances added to the Inventory following the completion of section 5 PMN review and the Agency's receipt of a notice of commencement of manufacture or import. At the present time, the Inventory data base contains production volume data for only the substances originally reported for the Inventory. For the substances submitted under section 5, production estimates, rather than actual production volumes, are reported. These estimates are not included in the Inventory data base. The actual production volume information that would be reported under this rule will be added to the Inventory data base and will be used by the Agency to set priorities for further investigation of these substances.

##### A. Age of Inventory Data Base

Since the Inventory data base contains only information from 1977, the accuracy of the data has been diminishing significantly with time. The growing obsolescence of the Inventory data base has become a matter of increasing concern to EPA. For any of the regulatory purposes previously described, it is important for the Agency

to be able to determine quickly, accurately, and efficiently who produces these chemical substances, where they are produced, and in what quantities. The Inventory data base should be the logical data base from which to obtain such basic information. Unfortunately, it cannot now be relied upon for accurate information because the data have become increasingly outdated.

Over the past several years, evidence of significant changes in the production volume and plant site for many Inventory substances has been observed. For example, the Interagency Testing Committee (ITC) uses the production ranges in the Inventory data base as its first-level screening for candidate substances for testing under TSCA section 4. The ITC has found changes in both the manufacturing plant sites and production ranges for many chemical substances reviewed for testing. These changes have complicated the ITC's initial screening process and have complicated the ITC's initial screening process and have forced the ITC and EPA to spend additional time and resources verifying the data listed in the Inventory data base and attempting to obtain current information. Such efforts are not cost-effective and do not always produce adequate information.

Similarly, EPA discovered that the plant site information in the Inventory data base was not reliable when the Agency attempted to identify and contact manufacturers who would be subject to reporting under the section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712). Major discrepancies were also evident when production volume data collected under the Preliminary Assessment Information Rule were compared against the corresponding production ranges reported for the Inventory data base.

There have been numerous instances in which the Inventory data base has been identified as not providing accurate information on a particular chemical substance when such information was needed by EPA for TSCA purposes. In some cases, EPA was compelled to promulgate chemical-specific section 8(a) rules to monitor the production level of these substances. The lack of readily available current production data on these substances has, therefore, complicated the Agency's investigations of chemical substances, compelled the Agency to obtain current information in a resource-intensive and inefficient manner.

### B. Alternate Sources and Their Limitations

1. *Alternate sources.* EPA has attempted to obtain current production volume and plant site information, on a case-by-case basis, directly from industry, through the use of contractors, and from other existing sources such as:

- "The SRI Directory of Chemical Producers (DCP)."
- "Synthetic Organic Chemicals: United States Production and Sales (SYNORG)."
- "Chemical Economics Handbook (CEH)."
- "Chemical Marketing Reports."
- "Chemical Industry Notes."
- Existing internal sources maintained by EPA and other Federal agencies.

2. *Limitations.* The use of sources other than the Inventory data base has three major limitations.

First, many existing sources of similar information, whether compiled by Government or commercial entities, often do not provide adequate information for EPA's needs under TSCA. Sources other than the Inventory usually contain information on only a limited number of substances. To use production data as a tool in chemical screening, EPA needs a data base which provides readily available information for the many thousands of substances over which EPA has jurisdiction under TSCA. A case-by-case search for information would be impractical and costly because of the large number of substances involved.

Second, the information from other sources is often not comprehensive or reliable, does not always relate to specific plant sites, often pertains to product classes rather than specific substances, and, in certain cases, represents plant capacity rather than actual production volume.

Third, certain data bases compiled by other Government agencies often contain company proprietary information which cannot be readily made available to EPA.

### V. Substances Covered by the Rule

Reportable substances under this rule would include only those that are listed in the Agency's Master Inventory File as of the time of reporting and that are not specifically excluded from this rule. Substances which were originally excluded from the initial Inventory under 40 CFR 710.2 would therefore not be reportable under this rule. For example, any pesticide when manufactured, processed, or distributed in commerce for use solely as a pesticide would not be reportable.

Prior to the effective date of the final rule, EPA may publish an updated Inventory which will list most of the specific or generic chemical names of both substances initially reported for the Inventory and substances subsequently added to the Inventory. Since EPA continually adds to the Master Inventory File substances that have undergone PMN review and that are subsequently reported as manufactured or imported, the Agency may publish supplements to the Inventory from time to time covering additions to the Master Inventory File since a previous publication. Substances added to the Master Inventory File after the beginning of a reporting period would become reportable in the next reporting period, unless otherwise excluded from this rule.

### VI. Substances Excluded From the Rule

EPA proposes that four categories of substances, although included on the Inventory, be excluded from reporting under this rule. The purpose of these exclusions is to focus the information collection effort under this rule on those substances for which the Agency has the greatest need for current information. The four categories of substances proposed for exclusion are polymers, inorganics, microorganisms, and naturally occurring chemical substances. These categories are described below:

#### A. Polymers

The Inventory covers approximately 15,500 synthetic polymers and biopolymers. Most polymers can be identified in the Inventory's "Chemical Substance Identities" section or in the Agency's Master Inventory File with the words "polymer(s)" or "polymerized," or the prefix "poly" appearing in the corresponding Chemical Abstracts Service (CAS) Index or Preferred Nomenclature for that substance. EPA believes that the overwhelming majority of the synthetic polymers and biopolymers on the Inventory can be so identified. The few synthetic substances that may be borderline polymeric are named differently on the Inventory and would not, therefore, be excluded from this rule.

However, certain biopolymers which are not always identifiable by the terms "polymer(s)," "polymerized," or "poly" would also be excluded from reporting under this rule. These substances are identified in the hierarchy of subset headings for the Inventory's UVCB section (i.e., Chemical Substances of Unknown or Variable Composition, Complex Reaction Products, and Biological Materials). These

biopolymers are proteins (albumin, casein, gelatin, gluten, hemoglobin), enzymes, polysaccharides (starch, cellulose, gums), rubber, or lignin. Furthermore, biopolymers which have been chemically modified to the extent that the polymeric structure still remains substantially intact would not be reportable.

EPA's approach to identifying polymers for purposes of this exclusion is intended to be relatively simple, so that a quick determination of whether a substance is a polymer can be made. An Inventory listing of a polymer could represent a group of polymers with the same constituent monomers, irrespective of the proportion of the monomers or chain structure. A more sophisticated definition that would characterize individual polymers based on such criteria as chain structure or molecular weight variations would make a polymer determination more difficult, especially in view of how polymers are listed on the Inventory. The Agency believes that this increased administrative burden would substantially reduce the benefit of the exclusion.

EPA proposes to exclude polymers from the proposed rule for two reasons. First, only a small percentage of the polymers reported under the PMN rule are selected for detailed review because of concern about their toxicity, exposure, or use. Second, it appears unlikely that EPA will use production volume as a means to perform preliminary screening of polymers for further investigation under the existing chemicals review program. Some of the polymers that may become a matter of concern would most likely be identified by other criteria such as toxicity or use. Therefore, there is no need to use this rule to collect production volume and plant site data on all polymers listed on the Inventory, when only a small number of these substances may be assessed further under TSCA. In cases in which production volume and plant site data are needed for specific polymers, EPA could use the authority of a chemical-specific section 8(a) rule to obtain the information after those polymers have been identified.

#### B. Inorganic Substances

For purposes of this proposed rule, inorganic chemical substances are substances that do not contain a carbon atom, or contain carbon only in the form of carbonate, cyano, cyanato, isocyanato, or isocyanato groups, or the chalcogen analogues of these groups. Inorganic substances on the Inventory can be

easily identified and include approximately 3,000 substances.

The inorganic chemical substances are proposed for exclusion for reasons somewhat similar to those for excluding polymers. The hazard potentials of many inorganic substances are relatively well-established. Thus, it is unlikely that the Agency would use production volume as a means to perform preliminary screening of inorganic substances. When production data are needed on specific inorganic substances or groups of inorganic substances, EPA could use the authority of a chemical-specific section 8(a) rule to collect the required information.

#### C. Microorganisms

EPA is proposing to exclude from reporting under this rule about 200 substances that are classified on the Inventory as microorganisms. For purposes of this rule, this category includes bacteria, fungi, and yeasts which are easily identifiable in the hierarchy of subset headings for the Inventory's UVCB section and are also identified on the Inventory by their corresponding CAS Preferred Names which are usually standard names for the species. Products of microorganisms are, however, reportable unless otherwise excluded.

Microorganisms are proposed for exclusion under this rule because EPA is formulating its policy in the area of biotechnology, and TSCA information requirements for microorganisms are still being determined. Therefore, it would not be necessary to collect site-specific production data for microorganisms at this time. Information requirements relative to microorganisms will be addressed under a separate rule.

#### D. Naturally Occurring Chemical Substances

The Inventory includes a group of substances which may be naturally occurring, as described in § 710.4(b) of the original Inventory Reporting Regulations. These substances were not reportable under the Inventory Reporting Regulations, although they are included on the Inventory. For this reason, EPA is proposing to exclude from this rule all naturally occurring chemical substances produced as described in § 710.4(b). However, persons who produce a substance in a manner other than as described in § 710.4(b) would be required to report.

This proposed exclusion would cover chemical substances which are naturally occurring and which are unprocessed or processed only by manual, mechanical, or gravitational means, by dissolution in water, by flotation, or by heating solely

to remove water or which are extracted from air by any means. Examples of such substances include raw agricultural commodities, water, air, natural gas, crude oil, minerals, ores, and rocks.

#### E. Other Possible Exclusions

In addition to the four categories of substances proposed for exclusion, EPA is also considering excluding other categories of substances from this rule. The possible candidates for exclusion include those substances that are petroleum refinery streams and wastes, as well as other UVCB substances. EPA invites public comments on these additional categories.

#### VII. Persons Subject to the Rule

Except for those described in Unit VIII below, a person would be considered to be a manufacturer subject to this rule if that person has manufactured or imported for commercial purposes a reportable substance at any time during that person's most recent complete corporate fiscal year immediately preceding the effective date of the rule or any subsequent reporting period. For example, if the effective date of the initial reporting period were January 1, 1986, and a company's fiscal year begins on October 1, the most recent corporate fiscal year for that company would be October 1, 1984, through September 30, 1985.

A person who has reported manufacture or import of a reportable substance under the rule but has subsequently discontinued such manufacture or import is considered to be a manufacturer subject to this rule for the next reporting period.

This rule includes an initial reporting period and subsequent reporting periods, as discussed in Unit IX of the preamble. In general, all persons subject to the rule would be required to report for the initial reporting. Subsequent reporting will be required only when one of the reportable events, as discussed in Unit IX, occurs.

#### VIII. Persons Exempt From the Rule

EPA is proposing that two categories of persons be exempt from the reporting and recordkeeping requirements of this rule if they qualify for one of the proposed exemptions at the time of reporting.

##### A. Small Manufacturers

EPA is proposing that small manufacturers (including importers) of reportable chemical substances be exempted from all reporting and recordkeeping requirements of this rule except with respect to those who manufacture or import chemical

substances regulated under TSCA section 5(e). The purpose of this exemption is to reduce the paperwork burden on small chemical manufacturers, while ensuring that EPA's basic information requirements will be satisfied.

Persons would qualify as small manufacturers under this rule if, at the time of reporting, they meet one of the two standards specified in the recently promulgated TSCA section 8(a) Small Manufacturers Exemption Rule (40 CFR Part 704). These two exemption standards are as follows:

1. *First standard.* A chemical manufacturer would qualify as "small" under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than \$40 million. However, if a manufacturer with total annual sales of less than \$40 million produces annually over 100,000 pounds (45,400 kilograms) of a particular chemical substance at a particular plant site, that manufacturer will not qualify as small with regard to that chemical substance at that plant site.

Under this first standard, a company that meets the sales criterion for small but does not meet the volume criterion for all of its sites will be subject to reporting or recordkeeping for a particular chemical substance only for sites producing 100,000 pounds or more of the chemical substance per year.

2. *Second standard.* A chemical manufacturer would qualify as small if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than \$4 million, regardless of the quantity of chemical substances produced by that manufacturer.

For purposes of these two standards, total annual sales would mean the total revenue generated by the sale of all products, including non-chemical products, that are produced at a plant site. EPA will consider periodically adjusting, as necessary, the sales values of both standards to allow for inflation after the promulgation of this rule. The Agency will use an index from the Bureau of Labor Statistics (BLS) for this purpose: the Producer Price Index for Chemicals and Allied Products. Similarly, EPA recognizes the possibility that the sales values may also be subject to deflationary economic trends. The Agency could adjust the sales values downward if significant deflation were to occur.

Companies would use the corporate fiscal year as the 12-month period for which both annual sales and production volume are to be calculated. In the first standard, annual production volume would mean the total amount of a chemical substance produced or imported during the designated 12 month period.

A parent manufacturing company would be one which owns or controls another company. Ownership or control would exist when one company owns 50 percent or more of another company's voting stock or other equity rights, or has the power to control the management and policies of the other company. This proposed definition is drawn from the 1977 Economic Census Report of Organization of the United States Department of Commerce.

#### *B. Persons Manufacturing Substances in Limited Circumstances*

EPA is proposing to exempt from this rule persons who manufacture reportable substances either in limited ways or through coincidental manufacture. Section 704.5(a) of the general section 8(a) rules exempts persons who manufacture or import substances solely for research and development; § 704.5(c) exempts persons who import substances as part of articles. EPA is proposing that these two exemptions apply to this rule without change.

For the original Inventory Reporting Regulations and for the PMN rule, EPA recognized that chemical substances are often manufactured incidental to another operation or upon end use of another substance or mixture. For example, a paper carton producer applies adhesives and inks during the carton-making operation and other chemical substances are formed coincidentally as these adhesives and inks dry. EPA has exempted such types of "manufacture" from the original Inventory reporting and from PMN requirements. Accordingly, EPA is proposing to exempt these types of "manufacture" from this rule as well, because EPA believes that it does not need information on such coincidental manufacture to update the Inventory Data Base.

Section 720.30(g) of the PMN rule would apply to this rule exempting manufacture of byproducts which are used only as a fuel, which are disposed of as a waste, or from which component chemical substances are extracted. Section 720.30 (h) would also apply, exempting manufacture of impurities and substances from reactions upon end use, as well as nonisolated intermediates.

### **IX. Whether To Report**

#### *A. Initial Reporting*

For the initial reporting period, all manufacturers who are subject to this rule would be required to report on every reportable substance manufactured at each particular plant site. If a person later begins to manufacture or import for commercial purposes a reportable substance at a plant site, that person would submit an initial report for that substance and plant site during the next reporting period. The initial reporting would enable EPA to establish a base line of current information on those substances that are in commercial production.

#### *B. Recurring Reporting*

After the initial reporting period, reporting would be required every 2 years if one of the reportable events occurred during the most recent complete corporate fiscal year preceding a relevant reporting period. For purposes of this rule, reportable events reflect what EPA considers as significant changes in production volume, or site-limited status of a reportable substance. Based on its experience with the 1977 Inventory data, EPA estimates that approximately 12.5 percent of the production and site information in the Inventory data base would become obsolete each year. The Agency, therefore, believes that the 2-year reporting interval would be reasonable, since this would enable the Agency to maintain a relatively current data base without imposing an unreasonable reporting burden on industry.

For purposes of this proposed rule, reportable events that would trigger reporting after the initial reporting are defined as follows:

1. *Production volume.* For reportable substances with a previously reported annual production volume of 10,000 pounds or more, a reportable event would occur when the previously reported site-specific production volume or the total quantity imported of a substance increases or decreases by 5-fold or more. EPA believes that such a magnitude of change is significant in terms of exposure potential. When there is a 5-fold, i.e., 500 percent, increase in production volume of a substance, the Agency believes that such a substantial increase in production volume would result in a higher exposure potential for the substance. In the case of a 5-fold, i.e., 80 percent, decrease in production volume of a substance, the Agency believes that its concern would be reduced, and priorities for regulatory actions may change as a result.

If a reportable substance is produced at 10,000 pounds or more at a given plant site for the first time since the previous reporting period, this fact would constitute a reportable event for the next reporting period. Similarly, if production of a reportable substance ceases at a given plant site during the 2 fiscal years since the previous reporting period, that fact would be reportable for the next reporting period. No further reporting would be required unless and until commercial production of that substance has resumed at that plant site at 10,000 pounds or more.

2. *Site-limited status.* A reportable event would occur when a substance, previously reported as site-limited is distributed outside that specific plant site for commercial purposes for the first time, or when a previously distributed substance covered by this rule becomes site-limited for the first time.

#### *C. Low-Volume Threshold*

EPA is proposing to establish a low-volume threshold by exempting from initial reporting substances produced at low volumes. For purposes of this rule, if the site-specific annual production volume or the total amount annually imported for a substance is below 10,000 pounds, no initial reporting would be required. If a person's site-specific annual production volume or total amount annually imported increases to 10,000 pounds or more after the close of the initial reporting period, the person would be required to comply with the reporting requirements of this rule for that substance in the first subsequent reporting period.

EPA's reason for exempting low-volume substances from this rule is based on its information need. Although EPA may need production volume information for certain low-volume substances, it appears unlikely that the Agency will need readily available production volume information as a general tool to screen these substances for further investigation. When production volume information is needed for certain low volume substances, EPA could use the authority of a chemical-specific 8(a) rule to collect the required information. EPA believes that this exemption is reasonable and consistent with the Agency's past efforts in exempting low-volume substances from the requirements of other rules promulgated under TSCA.

### **X. What To Report**

Persons who are subject to this rule would be required to report by completing an EPA-designated reporting form. Proposed reporting forms are

included in § 710.39 of the proposed rule. Detailed instructions for filling out the reporting forms will be made available prior to the effective date of the final rule.

There are two different versions of the reporting form, each containing four parts. The first version of the form, U-1, would be used by persons reporting information on substances whose identity is not confidential at the time of reporting or will not remain confidential on the Inventory. The second version of the form, U-2, would be used only by persons reporting information on chemical substances whose identity will remain confidential on the Inventory.

Parts I, II, and III of the reporting form include the certification to be signed by the submitter and require the reporting of other basic submitter information. Part IV of the form would be used to indicate whether the submission is an initial reporting or a reporting of changes. The extent to which Part V of the form would be completed would depend on the number of chemical substances reported on that form.

EPA is also examining the feasibility of allowing certain submitters to report by computer tapes. If EPA determines that reporting in this manner is a feasible approach, it will provide, prior to the effective date of the final rule, complete instructions stipulating the format specifications for preparing such computer tapes.

The information requirements for this rule are discussed below. In most cases, a submitter would provide fiscal information for the most recent complete corporate fiscal year preceding the relevant reporting period, unless otherwise stated in this rule.

#### A. Chemical Identity

For each chemical substance covered by this rule, a submitter would be required to provide a specific chemical name, a CAS Registry Number, and/or other identifying numbers used on the Inventory. Persons would check the published Inventory to obtain the correct name and Registry Number for their substances. If the identity of a substance is confidential, a submitter would consult the generic names section of the published Inventory to obtain an EPA-designated Accession Number for that substance. If a person is uncertain whether a reportable substance is covered by one of the generic names, the person would have to contact EPA using the *bona fide* procedures in § 710.7(g) of the Inventory Reporting Regulations or § 720.25(b) of the PMN rule to determine whether the substance in question is reportable.

#### B. Plant Site

Importers would report by their United States headquarters. Each manufacturer would be required to report by specific plant site name and street address.

Certain manufacturers were permitted to report for the original Inventory by corporate headquarters, business or Post Office Box addresses, or through trade associations and other agents. EPA has found that data on specific plant sites are much more useful to the Agency. Plant site data usually enable the Agency to develop a more accurate estimation of potentially exposed populations and to identify and communicate with manufacturers of chemical substances more easily.

#### C. Production Volume

Manufacturers would be required to report the quantity of the substance manufactured at each plant site in separate reports, importers would be required to report the total quantity imported, regardless of destination, and the information would be reported in pounds. Although EPA does not plan to prescribe specific accuracy ranges for reporting quantities, a submitter should provide the best available information, i.e., production figures normally maintained at a plant site for business purposes and known to, or reasonably ascertainable by, a submitter as specified in section 8(a)(2) of TSCA. Reporting of inaccurate data would constitute a violation of the rule and would subject the violator to EPA enforcement actions.

EPA is proposing that precise production data, rather than production ranges, be reported under this rule because in many applications the Agency has found that the production ranges reported for the 1977 Inventory data base create a certain degree of uncertainty in estimating exposure. This uncertainty is compounded when information from different plant sites is aggregated. Precise production data would minimize the uncertainties prevalent in the Agency's use of the 1977 Inventory production data.

The use of narrower ranges was considered by EPA as an alternative to the wide ranges used for the 1977 Inventory. EPA has not adopted that approach because the Agency believes that production data are not maintained by industry in ranges. Therefore, the reporting of precise production data would not be more burdensome to the submitters and would provide the Agency with more useful information.

#### D. Site-Limited Status

Manufacturers would be required to indicate whether a chemical substance manufactured at a plant site is distributed for commercial purposes outside that site, including as part of mixtures or articles. Imported substances could not be site-limited.

#### E. Technical Contact

Persons reporting under this rule would be required to identify the name, address, and telephone number of an individual who can answer questions concerning the information on the reporting form. This information would be used by EPA to resolve reporting errors or technical problems related to the submission.

#### XI. Reporting Period

As discussed above, after the initial reporting, reporting of changes would occur at two-year intervals. EPA is proposing an initial reporting period of 120 days beginning on the effective date of the rule. EPA believes that such a period will be sufficient for initial reporting. In subsequent reporting years EPA is proposing a reporting period of only 60 days because the volume and burden of reporting would be significantly reduced. Subsequent reporting periods would begin on the anniversary of the effective date of the rule every two years.

#### XII. Confidentiality

##### A. Asserting Claims

Submitters would be permitted to claim information submitted to EPA under this rule as confidential if release of the information would reveal trade secrets or confidential commercial or financial information, as provided by section 14 of TSCA. Claims of confidentiality could be asserted only at the time information is submitted to EPA and only in the manner specified in the rule. EPA's procedures for processing and reviewing confidentiality claims are set forth at 40 CFR Part 2, Subpart B.

Any information submitted under this rule could be claimed as confidential, even if the same or similar information (except chemical identity) was not so claimed during reporting for the initial Inventory. However, EPA would strongly encourage submitters to review their claims carefully to ensure that the information in question falls within the protection of section 14 of the Act and to limit claims as much as possible.

To claim information as confidential, a submitter would check the appropriate box and sign the certification statement on the reporting form. If a submitter

failed to do so, EPA would release the information to the public without further notice to the submitter. As in reporting under the initial Inventory Reporting Regulations, by signing the certification statement the submitter would certify that its claims of confidentiality are made in good faith and that the four statements on the back of the form are true for each claim. Procedures for claiming as confidential information submitted by computer tapes will be specified at the time of the final rule, if EPA determines that reporting in this manner is feasible.

Companies that assert claims of confidentiality for chemical identity would follow the procedures set forth in the next section.

### B. Chemical Identity

A submitter under this proposed rule could not assert a claim of confidentiality for specific chemical identity of a substance unless the chemical identity is held confidential on the Inventory as of the time of the report. All submitters reporting information on a confidential substance would be required to use the EPA reporting form U-2 specially designed for reports on confidential substances and to check the appropriate box indicating a confidentiality claim for chemical identity. Chemical identity information reported on Form U-1 would be nonconfidential and would be released by EPA without prior notification to the submitter.

To assert a claim of confidentiality for the identity of a chemical substance which is confidential on the Inventory, the person would also be required to substantiate the claim by answering in writing certain questions in §710.39 of the proposed rule. These questions are similar to those used for substantiating claims of confidentiality for chemical identity for the original Inventory Reporting Regulations and for the PMN rule. Persons who reported for the original Inventory and persons whose substances underwent PMN review and were subsequently reported as manufactured or imported asserted and substantiated their claims of confidentiality for chemical identity at that time. Since considerable time has passed since those claims were substantiated, EPA is proposing that those original submitters, as well as any new manufacturers of a given substance who report under this rule would be required to substantiate claims of confidentiality for specific chemical identity at the time of reporting under this rule. When a person submits a report of changes in production volume or site-limited status of a substance

under this rule, the person would be required to substantiate the claim again. However, if circumstances with regard to the claim of confidentiality have not changed, such a substantiation could be submission of a copy of the previous substantiation.

If a manufacturer reports under this rule a chemical substance whose identity is held confidential on the inventory, and the manufacturer does not claim the chemical identity confidential, EPA will consider the identity of that substance no longer confidential for purposes of the Inventory because the fact that someone is manufacturing or importing it for commercial purposes is not confidential. In such a situation, EPA would inform all those persons who report the substance under this rule and who reported for the Inventory or under PMN that the substance identity will no longer be held confidential on the Inventory or in the data base. This policy is consistent with the policy adopted for the original Inventory reporting.

EPA strongly encourages persons who asserted claims of confidentiality for chemical identity for substances they reported for the Inventory to reconsider the necessity of retaining those claims. If a person decides not to assert again a claim of confidentiality for the identity of a substance which is on the Inventory, that person would report information on the substance on EPA reporting form U-1.

### C. Release of Data

EPA will continue to provide the public with sufficient and informative access to information collected for the Inventory data base while protecting submitters' valid proprietary interests. This will be accomplished by disclosing to the public all information reported that is not claimed as confidential and continuing to release aggregates of confidential production information. By releasing aggregate data, the Agency is able to share with the public at least general information about industry-wide production totals for Inventory substances. EPA is devising a data aggregation methodology that is sensitive to the specific production levels and changes reported under this rule.

### XIII. Recordkeeping Requirements

EPA is proposing that persons subject to this rule be required to maintain records that document any information reported or a decision not to report for up to a 5-year period after the creation of these records. For example, if a person had determined that reporting

was not necessary for a reporting period because the production volume of a substance did not change sufficiently to be a reportable event, that person would be required to retain records supporting that determination for a 5-year period.

EPA believes that the types of information being requested under this rule are readily available to a submitter, and that the records supporting reporting under the proposed rule will be records that the submitter would normally retain in the course of conducting business.

### XIV. Economic Impact

Based on the proposed exclusions and exemptions discussed in this preamble, EPA believes that approximately 15,000 chemical substances would be covered by this rule. EPA estimates that a total of 4,600 plant sites would be required to submit an initial report and that approximately 25 percent of these sites would be required to report in a subsequent reporting period.

EPA estimates that chemical manufacturers subject to this rule will spend a maximum of \$5.184 million to report for the initial reporting period. These estimates include both fixed and variable costs.

The fixed costs per plant site to comply with the initial reporting requirements of this rule are estimated at \$911. This includes time to become familiar with the reporting requirements, time to determine which of the substances produced at that site is covered by the rule, and time to develop an ongoing reporting mechanism. Maximum variable costs of compliance with the initial reporting are estimated at an additional \$242 per reporting form that must be submitted. The variable costs include time to gather necessary data, and time to complete and review a reporting form including a determination of whether the information should be claimed as confidential.

The fixed and variable cost estimates were based on the number of hours that would be required to complete a reporting form. EPA estimates an average of 19 hours for a submitter to become familiar with the rule, determine which of the substances produced at a plant site is reportable, and develop a reporting mechanism. An additional 4.6 hours are estimated for a submitter to gather the necessary information and to complete and review a reporting form. At an average of one report per plant site, these estimates allow 23.6 hours for an average plant site's compliance. This figure could be lower or higher depending on the number of forms involved at a plant site.

For a subsequent reporting period, all plant sites manufacturing a reportable substance would have to make a determination of whether a reportable change has occurred during the specified period. EPA estimates that only 25 percent of these plant sites would be required to report changes. The total cost to manufacturers who must report during a subsequent reporting period is estimated to be \$201,000. This estimate includes both the cost for making the determination and for gathering information and completing a reporting form. Additionally, the total cost to the 75 percent of non-reporting plant sites that have to make a determination is estimated to be \$418,000.

A more detailed economic impact analysis of the requirements of this rule is included in the rulemaking record.

#### XV. Alternatives

In developing its approach for updating the TSCA Inventory data base, EPA reviewed a number of options ranging from a complete update of the entire inventory data base to no update. In its evaluation of the various options, EPA considered the need for current information and the cost to the Agency for obtaining the required information as well as the reporting burden on industry. EPA believes that the proposed approach will provide the Agency with adequate, but not unnecessary, information that it needs to conduct its activities under TSCA, while not imposing any unreasonable burden on industry or the Agency.

A possible alternative that EPA may consider would require manufacturers subject to this rule to submit information if a reportable event has occurred within a three year period. As compared with the proposed approach, recurring reporting under this option would occur less frequently and thus the burden imposed on manufacturers would be reduced; however, this option would result in the inventory data base being less accurate (by the third year approximately 37.5 percent of the inventory data base would be out of date). Thus, EPA believes that the three-year interval may not represent the most appropriate balance between maintaining a relatively current data base and minimizing excessive reporting burden.

Another alternative that EPA may consider and would require manufacturers subject to this rule to automatically submit current information all reportable substances every three years. Since recurring reporting under this option would not be triggered by the occurrence of a reportable event, there would be more

reports. However, manufacturers would not have to determine whether recurring reporting is necessary and this may further simplify the recordkeeping procedures. EPA invites public comments on these reporting alternatives.

A discussion of other alternatives considered but not adopted by EPA is included in a supporting document in the rulemaking record.

#### XVI. Rulemaking Record

The record for this proposed rulemaking includes basic information considered by the Agency in developing this proposed rule. The following documents are included in the rulemaking record:

(1) Analysis of reporting requirements for the partial update of the TSCA Inventory Data Base.

(2) Whether and how the TSCA Inventory Data Base should be updated.

(3) Analysis of TSCA section 8(a) Small Manufacturer Exemption.

The Agency will supplement the record with the following types of additional information as they are received or developed:

1. All comments on this proposed rule.  
2. All relevant support documents and studies.

3. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

4. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

5. Any factual information considered by the Agency in developing the rule.

EPA will identify the complete rulemaking record on or before the date of promulgation of the rule, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and that date.

#### XVII. Judicial Review

When this proposed rule is promulgated, judicial review may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or for the circuit in which the person seeking review resides or has his principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so-called "races to the courthouse," EPA intends to promulgate this rule for purposes of judicial review two weeks after publishing the final rule in the Federal Register. The effective

date will be calculated from the promulgation date.

#### XVIII. Regulatory Assessment Requirements

##### A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed regulation is not "major" because it will not have an annual effect of \$100 million or more on the economy. It is not anticipated to have a significant effect on competition, costs, or prices.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

##### B. Regulatory Flexibility Act

This rule contains a small manufacturer exemption which would exempt small manufacturers from all reporting requirements. Therefore, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

##### C. Paperwork Reduction Act

The information collection requirements contained in this proposed rule have been submitted for approval to OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on the information collection request (not on the substantive content of the rule itself) should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

(Sec. 8 (a), Pub. L. 94-409, 90 Stat. 2027 (15 U.S.C. 2607))

#### List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Inventory, Hazardous materials, Recordkeeping and reporting requirements.

Dated: March 3, 1985.

Lee M. Thomas,  
Administrator.

#### PART 710—[AMENDED]

Therefore, it is proposed that Part 710 be amended as follows:

#### §§ 710.1—710.8 (Designated as Subpart A)

1. By designating the existing §§ 710.1 through 710.8 as Subpart A, entitled:

### Subpart A—Compilation of the Inventory

2. By adding a new Subpart B to read as follows:

#### Subpart B—Partial Updating of the Inventory Data Base

Sec.

- 710.23 Definitions.  
 710.25 Chemical substances to be reported.  
 710.27 Persons subject to this subpart.  
 710.28 Persons not subject to this subpart.  
 710.30 Reporting requirements.  
 710.33 Recordkeeping requirements.  
 710.38 Confidentiality.  
 710.39 Reporting forms.

(Sec. 8(a), Pub. L. 94-469, 90 Stat. 2027 (15 U.S.C. 2607))

#### Subpart B—Partial Updating of the Inventory Data Base

##### § 710.23 Definitions.

The definitions in § 704.3 of this chapter and § 710.2 apply except as provided in this section.

(a) "Manufacturer" means a person who manufactures or imports a chemical substance for commercial purposes. A person who extracts a component chemical substance from a complex combination of chemical substances is a manufacturer of that component chemical substance.

(b) "Master Inventory File" means EPA's comprehensive list of chemical substances which constitute the Chemical Substances Inventory compiled under section 8(b) of the Act. It includes substances reported under Subpart A of this Part and substances reported under Part 720 of this chapter for which a Notice of Commencement of Manufacture or Import has been received under § 720.120 of this chapter.

(c) "Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

(d) "Parent company" means a company which owns or controls another company. Ownership or control exists when one company owns 50 percent or more of another company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(e) "Plant site" means a contiguous property unit under the ownership or control of a manufacturer or importer.

Property divided only by a public right-of-way is one plant site. There may be more than one manufacturing facility on a single plant site. For an importer, the plant site is the importers' United States headquarters.

(f) "Site-limited" means that the chemical substance in question is manufactured and processed only within a plant site and is not distributed for commercial purposes outside the plant site as a chemical substance or as part of a mixture of article. No imported chemical substance is site-limited.

(g) "Small manufacturer" means a manufacturer meeting either of the following standards:

(1) *First standard.* A manufacturer is "small" under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than \$40 million. However, if a manufacturer with total annual sales of less than \$40 million produces annually over 100,000 pounds (45,400 kilograms) of a particular chemical substance at a particular plant site, that manufacturer will not qualify as small with regard to that chemical substance at that plant site. (For imports, the 100,000 pound figure applies to the total amount imported.)

(2) *Second standard.* A manufacturer is small under this standard if the total annual sales of all plant sites that it owns or controls (together with those that are owned or controlled by its foreign or domestic parent company, if any) are less than \$4 million, regardless of the quantity of chemical substances produced by that manufacturer.

(h) "Total annual sales" means the total annual revenue (in dollars) generated by the sale of all products of a plant site.

##### § 710.25 Chemical substances to be reported.

(a) *Inclusions.* Any chemical substance which is in the Master Inventory File at the time of a reporting period specified in § 710.30(c) is subject to the reporting requirements of this subpart unless specifically excluded by paragraph (b) of this section.

(b) *Exclusions.* The following categories of chemical substances are excluded from reporting under this subpart:

(1) *Inorganic chemical substances.* Any chemical substance which does not contain carbon or contains carbon only in the form of carbonate, cyano, cyanate, isocyanate, or isocyanate groups, or the chalcogen analogues of such groups.

(2) *Polymers.* (i) Any chemical substances described with the words "polymer" or "polymerized" or the prefix "poly-" in the Chemical Abstracts Service Index or Preferred Nomenclature in the Chemical Substances Identities section of the published Inventory or in the Master Inventory File; (ii) Biopolymers that are proteins (albumin, casein, gelatin, gluten, hemoglobin), enzymes, polysaccharides (starch, cellulose, gums), lignin, or rubber. This exclusion also applies to biopolymers which are chemically modified to the extent that the polymeric structure still remains substantially intact.

(3) *Microorganisms.* Combinations of chemical substances that are living organisms, such as bacteria, fungi, and yeasts. Chemical substances produced from such living organisms are reportable unless otherwise excluded.

(4) *Naturally Occurring Chemical Substances.* Any naturally occurring chemical substances, as described in § 710.4(b). This exclusion applies to the specific activities of the person who must report. Some chemical substances can be manufactured both as described in § 710.4(b) and by means other than those described in § 710.4(b). If a person subject to this subpart manufactures a chemical substance by means other than those described in § 710.4(b), the person must report regardless of whether the substance could also have been produced as described in § 710.4(b). Chemical substances produced from such naturally occurring chemical substances would be reportable unless otherwise excluded.

##### § 710.27 Persons subject to this subpart.

Except as provided in § 710.28, the following persons are subject to the requirements of this subpart:

(a) *Initial reporting.* (1) Any person who manufactured for commercial purposes 10,000 pounds (4,540 kilograms) or more of a chemical substance subject to this subpart at a particular plant site during that person's last complete corporate fiscal year before (effective date of final rule).

(2) Any person who manufactured for commercial purposes 10,000 pounds (4,540 kilograms) or more of a chemical substance subject to this subpart at a particular plant site during that person's last complete corporate fiscal year before a reporting period specified in § 710.30(c)(2) for which a report was not previously submitted under § 710.30(a)(1).

(b) *Reporting of changes.* (1) Any person who manufactured for commercial purposes a chemical

substance subject to this subpart at any time during that person's last complete corporate fiscal year before a reporting period specified in § 710.30(c)(2).

(2) Any person who ceased manufacture for commercial purposes of a chemical substance subject to this subpart at a particular plant site during that person's last 2 complete corporate fiscal years before a reporting period specified in § 710.30(c)(2).

#### § 710.28 Persons not subject to this subpart.

The following persons are not subject to this subpart except as otherwise noted:

(a) Persons described in § 704.5 (a) and (c) of this chapter and persons who manufacture a chemical substance subject to this subpart as described in § 720.30 (g) and (h) of this chapter.

(b) Persons who are small manufacturers, except that such persons shall be subject to this subpart with respect to those chemical substances subject to an order issued pursuant to section 5(e) of the Act, 15 U.S.C. 2604(e).

#### § 710.30 Reporting requirements.

(a) *Initial reporting.* Any person described in § 710.27(a) must submit an initial report for each chemical substance subject to this subpart for each plant site at which the substance is manufactured for commercial purposes as follows:

(1) A person described in § 710.27(a)(1) must submit the report during the reporting period described in paragraph (c)(1) of this section.

(2) A person described in § 710.27(a)(2) must submit the report during the reporting period described in paragraph (c)(2) of this section which immediately follows the event described in § 710.27(a)(2).

(b) *Reporting of changes.* Any person described in § 710.27(b) must submit a report of changes for each chemical substance subject to this subpart for each plant site at which a reportable change has taken place for that substance since the person last reported on the production of the substance at that site. The report must be submitted during the reporting period described in paragraph (c)(2) of this section which immediately follows the reportable change. The following are reportable changes:

(1) For a chemical substance previously reported under this subpart with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site, an increase in the previously reported production volume of 500 percent or more, or a decrease in such volume of 80 percent or more, as

measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(2) For a chemical substance previously reported under this subpart with a production volume of greater than zero but less than 10,000 pounds (4,540 kilograms) at a particular plant site, an increase in production volume to 10,000 pounds or more, as measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(3) For a chemical substance previously reported under this subpart with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site, cessation of manufacture at that site during the last two complete corporate fiscal years before the reporting period.

(4) For a chemical substance for which a cessation of manufacture of that substance was previously reported under this subpart at a particular plant site, manufacture of 10,000 (4,540 kilograms) pounds or more, as measured by the production volume at that plant site for the most recent complete corporate fiscal year preceding the reporting period.

(5) For a chemical substance with a production volume of 10,000 pounds (4,540 kilograms) or more at a particular plant site:

(i) A change in status from site-limited for a plant site at which it was previously reported as site-limited.

(ii) A change in status to site-limited for a plant site at which it was previously not reported as site-limited.

(c) *Reporting periods.* All reports required under this subpart must be submitted to EPA during the applicable reporting period. The reporting periods for this subpart are as follows:

(1) The first reporting period is from (effective date) to (120 days after the effective date).

(2) The second reporting period is from (effective date plus two years) to (90 days after effective date plus two years). Subsequent reporting periods are from (effective date, without year) to (60 days after effective date, without year) at 2-year intervals thereafter.

(d) *Reporting procedures.* Reports under this subpart must be submitted on either the designated reporting forms or on computer tape as follows:

(1) *Reporting forms.* Written reports must be submitted in the form and manner set forth in either EPA Form No. U-1 or U-2 under § 710.39. Forms may be obtained from the TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection

Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460. Initial reports under paragraph (a) of this section must be submitted on separate forms from reports of changes under paragraph (b) of this section. Each form submitted must indicate whether it is an initial report or a report of changes. Form No. U-2 must be used when the specific chemical identity is claimed confidential as prescribed in § 710.38(c). Information for different plant sites must be submitted on separate forms.

(2) *Reporting by computer tape.* Reports by computer tape must be submitted in accordance with (name of guidance document to be supplied at time of final rule).

(e) *Information to be reported.* Each person required to report under this subpart must report on the production of each chemical substance subject to this subpart at each plant site, to the extent known or reasonably ascertainable by the person, as follows:

(1) A certification, signed and dated by an authorized official, that all information submitted is complete and accurate, that certain confidentiality statements are true, and that EPA will be permitted access to and copying of records to document information reported.

(2) For manufactured substances, the name, street address, city, State, and ZIP code of the plant site. For imported substances, the name, street address, city, State, and ZIP code of the United States headquarters.

(3) The name, street address, city, State, ZIP code, and telephone number of a technical contact able to answer questions about the information.

(4) The Chemical Abstracts Service Registry Number (and/or other identifying numbers including EPA-designated Accession Number for confidential substances) and specific chemical name of each chemical substance.

(5) Whether each chemical substance is manufactured or imported.

(6) The production volume in pounds, for the person's last complete corporate fiscal year, of each chemical substance manufactured or imported, reported as precisely as permitted by the person's routine business records.

(7) Whether the chemical substance was site-limited.

#### § 710.33 Recordkeeping requirements.

Each person who is subject to this subpart shall maintain records that document any information reported and that support any decision not to submit a report, and shall permit access to and copying of such records by EPA officials

upon request. Records shall be retained for a period of 5 years after the creation of such records.

**§ 710.38 Confidentiality.**

(a) Any person submitting information under this subpart may assert a business confidentiality claim for the information, as described in the instructions for the reporting forms in § 710.39 or in the instructions for reporting by computer tape. Information claimed as confidential will be treated in accordance with the procedures in Part 2 of this title.

(b) A person may assert a claim of confidentiality for the chemical identity of a specific chemical substance only if the identity of that substance is treated as confidential in the Master Inventory File as of the time the report is submitted.

(c) To assert a claim of confidentiality for the chemical identity of a specific chemical substance, the person must take the following steps:

(1) The person must report on EPA Form No. U-2, not by computer tape.

(2) The person must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) What harmful effects to your competitive position, if any, do you think would result from the identity of the chemical substance being disclosed in connection with reporting under this subpart? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(ii) How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(iii) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?

(iv) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?

(v) Is the fact that the chemical substance is being manufactured or imported for a commercial purpose publicly available, for example in technical journals, libraries, or State, local, or Federal agency public files?

(vi) What measures have you taken to prevent undesired disclosure of the fact that this chemical substance is being manufactured or imported for a commercial purpose?

(vii) To what extent has the fact that this chemical substance is manufactured or imported for a commercial purpose been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

(viii) Does this particular chemical substance leave the site of manufacture in any form, as product, effluent, emission, etc.? If so, what measures

have you taken to guard against discovery of its identity?

(ix) If the chemical substance leaves the site in a product that is available to the public or your competitors, can the substance be identified by analysis of the product?

(x) For what purpose do you manufacture or import the substance?

(xi) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

(3) If any of the information contained in the answers to the questions is asserted to contain confidential business information, the person must mark that information as "trade secret," "confidential," or other appropriate designation.

(4) If no claim of confidentiality accompanies information at the time it is submitted to EPA under this subpart or if substantiation required under paragraph (c) of this section is not submitted with the reporting form, EPA may make the information available to the public without further notice to the submitter.

**§ 710.39 Reporting forms.**

All persons subject to this subpart must use the EPA-designated forms for reporting, unless such reporting is submitted in a computer tape in accordance with § 710.30(d)(2). The EPA-designated reporting forms for this subpart follow.

BILLING CODE 6560-50-M

**IMPORTANT**

(1) Before completing this form, carefully read the accompanying instructions.  
 (2) Use this form for reporting if chemical identity is NOT claimed confidential.

Form Approved OMB No. 20XX-XXXX  
 Approval expires XX-XX-XX

US ENVIRONMENTAL PROTECTION AGENCY

**U - 1**



**PARTIAL UPDATING OF TSCA INVENTORY DATA BASE  
 PRODUCTION AND SITE REPORT**

(Section 8(a) Toxic Substances Control Act 15 USC 2607)

**I. CERTIFICATION STATEMENT:** I hereby certify that (1) all information entered on this form is complete and accurate, and (2) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

SIGNATURE	DATE	NAME/TITLE (Type or print)
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II. TECHNICAL CONTACT (Name, Street address, City, State, ZIP Code)	III. PLANT SITE (Name, Street address, City, State, ZIP Code)
---	---

TELEPHONE NUMBER OF TECHNICAL CONTACT	IV. <input type="checkbox"/> Initial <input type="checkbox"/> Report of changes
---------------------------------------	---

**V. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY**

NUMBER	CAS REGISTRY AND/OR OTHER IDENTIFYING NUMBER	SPECIFIC CHEMICAL NAME	ACTIVITY		PRODUCTION VOLUME (pounds)	SITE LIMITED		CONFIDENTIAL CLAIMS			
			MANUFACTURE	IMPORT		YES	NO	(A) MFGR / IMPORT	(B) SELLER / LIMITED	(C) PRODUCER / SITE	(D) PLANT / SITE
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											

**WHERE TO GET SUPPLIES**

TSCA Section 8(a) Forms U-1 and U-2 and a copy of the instruction booklet may be obtained by contacting the TSCA Assistance Office, Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, TOLL FREE 800-424-9065, in Washington, DC 202-554-1404.

**Send Completed Forms To**

**US Environmental Protection Agency  
Office of Toxic Substances  
PO Box**

**CONCERNING EPA DISCLOSURE OF INFORMATION**

Any person who submits information to EPA should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

**CONFIDENTIALITY STATEMENTS**

Information except chemical substance identity reported to EPA on the front of this form may be claimed confidential by checking the appropriate boxes under "Confidentiality Claims" of Block IV. In certifying this form, the person signing in Block 1 attests to the truth of the following four statements concerning all information (except chemical substance identity) which is claimed confidential.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

The person signing in Block 1 also attests to the truth of the appropriate statement(s) below concerning other information specifically claimed confidential for the particular chemical substance. By checking the box under:

- (a) **Manufacture/Import:** I assert that my activity as a manufacturer and/or an importer of the chemical substance is confidential (*Note: if only this box is checked, plant site information is not claimed as confidential and may be disclosed*).
- (b) **Site Limited:** I assert that the fact that the chemical substance is not distributed for a commercial purpose outside of the plant site identified in Block II is confidential.
- (c) **Production:** I assert that the production volume of the chemical substance for the plant site identified in Block II is confidential.
- (d) **Plant Site:** I assert that the link of this chemical substance to the plant site identified in Block II is confidential.

**IMPORTANT**

(1) Before completing this form, carefully read the accompanying instructions.  
 (2) Use this form for reporting only if chemical identity is claimed confidential.

Form Approved, OMB No. 20xx-xxxx  
 Approval expires xx-xx-xx

**U — 2** **EPA**

US ENVIRONMENTAL PROTECTION AGENCY  
**PARTIAL UPDATING OF TSCA INVENTORY DATA BASE  
 PRODUCTION AND SITE REPORT**

(Section 8(a) Toxic Substances Control Act 15 USC 2607)

**I. CERTIFICATION STATEMENT:** I hereby certify that (1) all information entered on this form is complete and accurate, and (2) the confidentiality statements on the back of this form are true as to that information for which I have asserted a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator, in accordance with the Toxic Substances Control Act, to document any information reported here.

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ NAME/TITLE (Type or print) \_\_\_\_\_

**II. TECHNICAL CONTACT** (Name, Street address, City, State, ZIP Code) \_\_\_\_\_  
**III. PLANT SITE** (Name, Street address, City, State, ZIP Code) \_\_\_\_\_

TELEPHONE NUMBER OF TECHNICAL CONTACT \_\_\_\_\_  
 IV.  Initial Report  Report of changes

**V. CHEMICAL SUBSTANCE IDENTITY/ACTIVITY/CONFIDENTIALITY**

N U M B E R	ACCESSION AND/OR OTHER IDENTIFYING NUMBER	SPECIFIC CHEMICAL NAME	ACTIV- ITY		SITE LIMITED		CONFIDENTIAL CLAIMS				
			M A N U F A C T U R E	I M P O R T	Y E S	N O	(I) N E G R / I M P O R T	(II) S I T E L I M I T E D	(III) P L A N T S I T E	(IV) C H E M I D	
1											
2											
3											
4											
5											

**WHERE TO GET SUPPLIES**

TSCA Inventory Updating Forms U-1 and U-2 and a copy of the instruction booklet may be obtained by contacting the TSCA Assistance Office, Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, TOLL FREE 800-424-9065, in Washington, DC 202-554-1404.

**Send Completed Forms To:**

**US Environmental Protection Agency  
Office of Toxic Substances  
PO Box**

**CONCERNING EPA DISCLOSURE OF INFORMATION**

Any person who submits information to EPA should be aware of EPA regulations (40 CFR Part 2) which govern disclosure of such information. Those regulations provide that such person may, if he or she desires, assert a confidentiality claim covering part or all of the information submitted. Information covered by such a claim will be publicly disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. However, if no such claim accompanies the information when it is received, EPA may make that information public without notifying the submitter.

**CONFIDENTIALITY STATEMENTS**

Chemical substance identity and other information reported to EPA on the front of this form may be claimed confidential by checking the appropriate boxes under "Confidentiality Claims" of Block IV. In certifying this form, the person signing in Block 1 attests to the truth of the following four statements concerning all information.

1. My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

The person signing in Block 1 also attests to the truth of the appropriate statement(s) below concerning the information specifically claimed confidential for the particular chemical substance. By checking the box under:

- (a) **Manufacture/Import:** I assert that my activity as a manufacturer and/or an importer of the chemical substance is confidential (*Note: if only this box is checked, plant site information is not claimed as confidential and may be disclosed*)
- (b) **Site Limited:** I assert that the fact that the chemical substance is not distributed for a commercial purpose outside of the plant site identified in Block II is confidential.
- (c) **Production:** I assert that the production volume of the chemical substance for the plant site identified in Block II is confidential.
- (d) **Plant Site:** I assert that the link of this chemical substance to the plant site identified in Block II is confidential.
- (e) **Chemical Identity:** I assert that the identity of the chemical substance is confidential.

The submitter of this form, when claiming that the identity of a chemical substance to be confidential, must provide written substantiation for such claim (see instructions) and also must agree to the following statement

**CONFIDENTIAL CHEMICAL SUBSTANCE IDENTITY STATEMENT**

I agree that EPA may disclose, for purposes of section 5(a)(1)(A) of the Act (premanufacture notification), to any person with a bona fide intent to manufacture the substance(s) identified on this form (as determined by EPA under 40 CFR 710.7(g)) the fact that the chemical substance(s) is (are) included on the Inventory. Further, I have or will have available and agree to furnish to EPA upon request, all information required in 40 CFR 710.7(e) for the substance(s) identified on this form.

EPA Form 7740-88 (12-84)

[FR Doc. 85-5810 Filed 3-11-85; 8:45 am]

BILLING CODE 6560-50-C