online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Gordon, (215) 814–2039, or by email at *gordon.mike@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information regarding the negative declaration submitted by Philadelphia AMS for SSI units, please see the information provided in the technical support document in the rulemaking docket and in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this issue of the **Federal Register**. The negative declaration letter submitted by Philadelphia AMS and technical support document in support of this action are also available online at *www.regulations.gov.*

Dated: October 11, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–23231 Filed 10–25–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 713

[EPA–HQ–OPPT–2017–0421; FRL–9970–07]

RIN 2070–AK22

Mercury; Reporting Requirements for the TSCA Mercury Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: As required under section 8(b)(10)(D) of the Toxic Substances Control Act (TSCA), EPA is proposing reporting requirements for applicable persons to provide information to assist in the preparation of an ''inventory of mercury supply, use, and trade in the United States,'' where ''mercury'' is defined as ''elemental mercury'' and ''a mercury compound.'' The requirements would be applicable to any person who manufactures (including imports) mercury or mercury-added products, or otherwise intentionally uses mercury in a manufacturing process. Based on the inventory of information collected, the Agency is directed to ''identify any manufacturing processes or products that intentionally add mercury; and . . . recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use.'' At this time, EPA is not making such identifications or recommendations.

DATES: Comments must be received on or before December 26, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0421, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Thomas Groeneveld, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–1188; email address: g*roeneveld.thomas@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import) mercury or mercury-added products, or if you otherwise intentionally use mercury in a manufacturing process. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Gold ore mining (NAICS code 212221)
- Lead ore and zinc ore mining (NAICS code 212231)
- All other metal ore mining (NAICS code 212299)
- Asphalt shingle and coating materials manufacturing (NAICS code 324122)
- Synthetic dye and pigment manufacturing (NAICS code 325130)
- Other basic inorganic chemical manufacturing (NAICS code 325180)
- All other basic organic chemical manufacturing (NAICS code 325199)
- Plastics material and resin manufacturing (NAICS code 325211)
- Pesticide and other agricultural chemical manufacturing (NAICS code 325320)
- Medicinal and botanical manufacturing (NAICS code 325411)
- Pharmaceutical preparation manufacturing (NAICS code 325412)
- Biological product (except diagnostic) manufacturing (NAICS code 325414)
- Paint and coating manufacturing (NAICS code 325510)
- Adhesive manufacturing (NAICS code 325520)
- Custom compounding of purchased resins (NAICS code 325991)
- Photographic film, paper, plate, and chemical manufacturing (NAICS code 325992)
- All other miscellaneous chemical product and preparation manufacturing (NAICS code 325998)
- Unlaminated plastics film and sheet (except packaging) manufacturing (NAICS code 326113)
- Unlaminated plastics profile shape manufacturing (NAICS code 326121)
- Urethane and other foam product (except polystyrene) manufacturing (NAICS code 326150)

- All other plastics product manufacturing (NAICS code 326199)
- Tire manufacturing (NAICS code 326211)
- All other rubber product manufacturing (NAICS code 326299)
- Iron and steel mills and ferroalloy manufacturing (NAICS code 331110)
- Rolled steel shape manufacturing (NAICS code 331221)
- Alumina refining and primary aluminum production (NAICS code 331313)
- Secondary smelting and alloying of aluminum (NAICS code 331314)
- Nonferrous metal (except aluminum) smelting and refining (NAICS code 331410)
- Secondary smelting, refining, and alloying of nonferrous metal (except copper and aluminum) (NAICS code 331492)
- Iron foundries (NAICS code 331511)
- Steel foundries (except investment) (NAICS code 331513)
- Fabricated structural metal manufacturing (NAICS code 332312)
- Industrial valve manufacturing (NAICS code 332911)
- Ammunition except small arms manufacturing (NAICS code 332993)
- Small arms, ordnance, and ordnance accessories manufacturing (NAICS code 332994)
- All other miscellaneous fabricated metal product manufacturing (NAICS code 332999)
- Food product machinery manufacturing (NAICS code 333294)
- Office machinery manufacturing (NAICS code 333313)
- Other commercial and service industry machinery manufacturing (NAICS code 333319)
- Heating equipment (except warm air furnaces) manufacturing (NAICS code 333414)
- Air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment manufacturing (NAICS code 333415)
- Pump and pumping equipment manufacturing (NAICS code 333911)
- Bare printed circuit board manufacturing (NAICS code 334412)
- Semiconductor and related device manufacturing (NAICS code 334413)
- Other electronic component manufacturing (NAICS code 334419)
- Electromedical and electrotherapeutic apparatus manufacturing (NAICS code 334510)
- Search, detection, navigation, guidance, aeronautical, and nautical system and instrument manufacturing (NAICS code 334511)
- Automatic environmental control manufacturing for residential, commercial, and appliance use (NAICS code 334512)
- Instruments and related products manufacturing for measuring, displaying, and controlling industrial process variables (NAICS code 334513)
- Totalizing fluid meter and counting device manufacturing (NAICS code 334514)
- Instrument manufacturing for measuring and testing electricity and electrical signals (NAICS code 334515)
- Analytical laboratory instrument manufacturing (NAICS code 334516)
- Watch, clock, and part manufacturing (NAICS code 334518)
- Other measuring and controlling device manufacturing (NAICS code 334519)
- Electric lamp bulb and part manufacturing (NAICS code 335110)
- Commercial, industrial, and institutional electric lighting fixture manufacturing (NAICS code 335122)
- Other lighting equipment manufacturing (NAICS code 335129)
- Electric house wares and household fan manufacturing (NAICS code 335211)
- Household vacuum cleaner manufacturing (NAICS code 335212)
- Household cooking appliance manufacturing (NAICS code 335221)
- Household refrigerator and home freezer manufacturing (NAICS code 335222)
- Household laundry equipment manufacturing (NAICS code 335224)
- Other major household appliance manufacturing (NAICS code 335228)
- Switchgear and switchboard apparatus manufacturing (NAICS code 335313)
- Relay and industrial control manufacturing (NAICS code 335314)
- Primary battery manufacturing (NAICS code 335912)
- Current-carrying wiring device manufacturing (NAICS code 335931)
- All other miscellaneous electrical equipment and component manufacturing (NAICS code 335999)
- Light truck and utility vehicle manufacturing (NAICS code 336112)
- Heavy duty truck manufacturing (NAICS code 336120)
- Motor home manufacturing (NAICS code 336213)
- Travel trailer and camper manufacturing (NAICS code 336214)
- Other aircraft parts and auxiliary equipment manufacturing (NAICS code 336413)
- Boat building (NAICS code 336612)
- Motorcycles and parts manufacturing (NAICS code 336991)
- Surgical and medical instrument manufacturing (NAICS code 339112)
- Costume jewelry and novelty manufacturing (NAICS code 339914)
- Game, toy, and children's vehicle manufacturing (NAICS code 339932)
- Sign manufacturing (NAICS code 339950)
- Other chemical and allied products merchant wholesalers (NAICS code 424690)
- Research and development in the physical, engineering, and life sciences (except biotechnology) (NAICS code 541712)
- Hazardous waste treatment and disposal (NAICS code 562211)
- Other nonhazardous waste treatment and disposal (NAICS code 562219)
- Materials recovery facilities (NAICS code 562920)
- National security (NAICS code 928110)

B. What action is the Agency taking?

EPA is issuing a proposed rule under TSCA section 8(b)(10) to require reporting to assist in the preparation of ''an inventory of mercury supply, use, and trade in the United States,'' where ''mercury'' is defined as ''elemental mercury'' and ''a mercury compound.'' Hereinafter ''mercury'' will refer to both elemental mercury and mercury compounds collectively, except where separately identified. This proposed rule would require reporting from any person who manufactures (including imports) mercury or mercury-added products, or otherwise intentionally uses mercury in a manufacturing process. EPA published its initial inventory report in the **Federal Register** on March 29, 2017 (Ref. 1), which noted data gaps and limitations encountered by the Agency in its historic reliance on publicly available data on the mercury market in the United States. As stated in the initial inventory report, ''[f]uture triennial inventories of mercury supply, use, and trade are expected to include data collected directly from persons who manufacture or import mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process'' (Ref. 1). These proposed reporting requirements would help the Agency narrow such data gaps, as well as to prepare subsequent, triennial publications of the inventory, and to execute the mandate to ''identify any manufacturing processes or products that intentionally add mercury; and . . . recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use'' (15 U.S.C. 2607(b)(10)(C)).

In addition, this information could be used by the U.S. Government to assist in its national reporting regarding its implementation of the Minamata

Convention on Mercury (Minamata Convention), to which the United States is a Party (Ref. 2). The Minamata Convention is an international environmental agreement that has as its objective the protection of human health and the environment from anthropogenic emissions and releases of elemental mercury and mercury compounds. Article 21 of the Convention requires Parties to include in their national reports, among other information, information demonstrating that the Party has met the requirements of Article 3 on Mercury Supply Sources and Trade and of Article 5 on Manufacturing Processes in Which Mercury or Mercury Compounds Are Used. As proposed, the reporting requirements of the proposed rule will further enhance the understanding of the use of mercury in the United States, in particular with respect to mercury supply sources and trade, mercury-added products, and manufacturing processes, thus providing a body of information that will assist the United States in its implementation of the reporting requirements of the Minamata Convention. EPA intends to use the collected information to implement TSCA and shape the Agency's efforts to reduce the use of mercury in commerce. In so doing, the Agency would conduct a timely evaluation and refinement of these reporting requirements so that they are efficient and non-duplicative for reporters.

EPA is proposing that supply, use, and trade of mercury include reporting requirements for activities comparable to established TSCA terms: Manufacture, import, distribution in commerce, storage, and export. The reporting requirements also would apply to otherwise intentional use of mercury in a manufacturing process. Persons who manufacture (including import) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process, would report amounts of mercury in pounds (lbs.) used in such activities during a designated reporting year. Reporters also would identify specific mercury compounds, mercury-added products, manufacturing processes, and how mercury is used in manufacturing processes, as applicable, from pre-selected lists. For certain activities, reporters would provide additional, contextual data (*e.g.,* country(ies) of origin/destination for imports/exports and NAICS codes for mercury or mercury-added products distributed in commerce).

The proposed reporting requirements would not apply to persons engaged in the generation, handling, or management of mercury-containing waste, unless that person manufactures or recovers mercury in the management of that waste with the intent to use the recovered mercury or store it for use. In addition, persons engaged in trade (*e.g.,* brokering, selling wholesale, shipping, warehousing, repackaging, or retail sale), but who do not first manufacture mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process, are not required to report. Finally, in an effort to avoid reporting that is unnecessary or duplicative, the Agency is proposing certain exemptions for persons who already report for mercury and mercury-added products to the TSCA section 8(a) Chemical Data Reporting (CDR) rule and the Interstate Mercury Education and Reduction Clearinghouse (IMERC).

In addition to topics where EPA notes that we are seeking specific comment, the Agency also encourages comment on all aspects of this proposal.

C. Why is the Agency taking this action?

EPA is issuing a proposed rule under TSCA section 8(b)(10) to require reporting to assist in the preparation of the statutorily-required inventory of mercury supply, use, and trade in the United States. This proposed rule would require reporting from any person who manufactures (including imports) mercury or mercury-added products, or otherwise intentionally uses mercury in a manufacturing process. After the publication of its initial inventory report in the **Federal Register** on March 29, 2017 (Ref. 1), the Agency is proposing this rule to support future, triennial publications of the mercury inventory. In administering this mercury inventory, the Agency would ''identify any manufacturing processes or products that intentionally add mercury; and . . . recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use'' (15 U.S.C. 2607(b)(10)(C)).

D. What is the Agency's authority for taking this action?

EPA is issuing this proposed rule pursuant to TSCA section 8(b)(10)(D) to implement the direction at TSCA section 8(b)(10)(B) that ''[n]ot later than April 1, 2017, and every 3 years thereafter, the Administrator shall carry out and publish in the **Federal Register** an inventory of mercury supply, use, and trade in the United States'' (15 U.S.C. 2607(b)(10)(B)). TSCA section 8(b)(10)(D) requires EPA to promulgate a final rule by June 22, 2018 that establishes reporting requirements applicable to any person who manufactures mercury or mercury-added products or otherwise intentionally uses mercury in a manufacturing process to assist in the preparation of the inventory (15 U.S.C. 2607(b)(10)(D)). However, persons ''engaged in the generation, handling, or management of mercury-containing waste, unless that person manufactures or recovers mercury in the management of that waste'' are not required to report to the mercury inventory (15 U.S.C. 2607(b)(10)(D)(iii)).

In addition, the Paperwork Reduction Act (PRA) requires Federal agencies to manage information resources to reduce information collection burdens on the public; increase program efficiency and effectiveness; and improve the integrity, quality, and utility of information to all users within and outside an agency, including capabilities for ensuring dissemination of public information, public access to Federal Government information, and protections for privacy and security (44 U.S.C. 3506).

Section 2 of TSCA expresses the intent of Congress that EPA carry out TSCA in a reasonable and prudent manner, and in consideration of the impacts that any action taken under TSCA may have on the environment, the economy, and society (15 U.S.C. 2601). EPA is proposing to manage and leverage its information resources, including information technology, to require the use of electronic reporting in order to implement the mercury inventory reporting requirements of TSCA section 8(b)(10)(D) in a reasonable and prudent manner.

E. What are the estimated incremental impacts of the proposed rule?

EPA has prepared an economic analysis of the potential impacts associated with this rulemaking (Ref. 3). The chief benefit of the proposed rule is the collection of detailed data on mercury, which will serve as a basis to recommend actions to further reduce mercury use in the United States, as required at TSCA section 8(b)(10)(C). Another benefit is the use of information collected under the proposed rule to help the United States implement its obligations under the Minamata Convention. There are no quantified benefits for the proposed rule. The statutory mandate specifically calls for and authorizes a rule to support an inventory of mercury supply, use, and trade in the United States, in order to identify any manufacturing processes or products that intentionally add mercury and recommend actions to achieve further reductions in mercury use. As described in the Agency's economic analysis, unquantified

benefits include providing increased information on mercury and assisting in the reduction of mercury use (Ref. 3). To the extent that the information gathered through this rule is used to reduce mercury use, benefits to society will result from a reduction in exposure. EPA seeks public comment on all aspects of the economic analysis.

TABLE 1—SUMMARY OF COSTS AND BENEFITS OF PROPOSAL

Category	Description
Benefits	The proposed rule would provide information on mercury and mercury-added products to which the Agency (and the public) does not currently have access. To the extent that the information gathered through this proposed rule is used to reduce mercury use, benefits to society will result from a reduction in risk.
Costs	Estimated industry costs and burden total $5.96 million and 74,000 hours (for up to 750 respondents) for the first year of reporting, with an individual estimate of $7,900 and 99 hours. For future triennial reporting cycles, industry costs and burden would be $4.37 million and 54,300 hours, with an individual estimate of $5,800 and 72 hours. These estimates include compliance determination, rule familiarization, CBI substantiation, electronic reporting, and recordkeeping, in addition to completing reporting requirements.
Effects on State, Local, and Tribal Governments.	Government entities are not expected to be subject to the rule's requirements, which apply to entities that manufacture (including import) mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process. The proposed rule does not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism implications.
Small Entity Impacts	The proposed rule would impact 211 companies that meet the U.S. Small Business Administration (SBA) definitions for their respective NAICS classifications: 4 small entities (1.85%) are expected to incur impacts of 1% percent or greater, and 1 of the small entities assessed is expected to incur impacts of greater than 3%. Furthermore, even if the entities whose status is ''undetermined'' were assumed to be impacted small entities, this would result in only 9 entities (4.17%). Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.
Environmental Justice and Protection of Children.	The information obtained from the reporting required by this proposed rule would be used to inform the Agency's decision-making process regarding chemicals to which minority or low-income populations or children may be disproportionately exposed. This information would also assist the Agency and others in determining whether elemental mercury and mercury compounds addressed in this proposed rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

F. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Background

A. Background on Mercury

Mercury is a naturally occurring element that originates in the earth's crust and can be found in air, water, fish, and other biota. Mercury exists in three forms: Elemental, organic compounds, and inorganic compounds.

Elemental mercury (Chemical Abstracts Service Registry Number (CASRN) 7439–97–6) is a shiny, silver-white metal that is liquid at room temperature. Mercury compounds are formed when elemental mercury reacts with another substance, either in nature or intentionally by humans. Organic mercury compounds are formed in the environment when mercury combines with carbon. Inorganic mercury compounds take the form of mercury salts. EPA's TSCA Chemical Substance Inventory lists 69 mercury compounds (Ref. 4).

In the United States, elemental mercury and mercury compounds are used in the manufacture of mercury-added products and certain manufacturing processes. The typical lifecycle of products includes manufacture, distribution in commerce (including transport and storage), use, and waste management (landfilling or recycling). At any point in the product lifecycle, there is potential for mercury to be released. Globally, the major anthropogenic sources of released elemental mercury are the combustion of coal and use of elemental mercury in artisanal gold mining (Ref. 5). Emitted elemental mercury can be transported in the atmosphere on local, regional, and global scales as it cycles through air, land, and water (Ref. 6). Some of the emitted elemental mercury following deposition and transformation into divalent mercury can be biotransformed into methylmercury (Ref. 6).

Methylmercury is a persistent and bioaccumulative neurotoxicant. Exposure to methylmercury most commonly occurs when people eat kinds of fish and shellfish that have high levels of methylmercury in their tissues (Ref. 7). Almost all people have at least small amounts of methylmercury in their bodies, reflecting the widespread presence of methylmercury in the environment (Ref. 7). People exposed to high levels of methylmercury may experience adverse health effects (Ref. 7). Generally, the subtlest indicators of methylmercury toxicity are neurological changes (Ref. 7). Neurotoxic effects at comparatively low doses include subtle decrements in motor skills and sensory ability, while extremely high exposures can cause tremors, inability to walk, convulsions, and death (Ref. 7). Exposure to mercury can also cause adverse ecological effects

in plants, birds, fish, and mammals (Ref. 6).

B. Recent Amendments to TSCA

The Frank R. Lautenberg Chemical Safety for the 21st Century Act (Lautenberg Act) (Pub. L. 114–182, 130 Stat. 448), enacted on June 22, 2016, implemented reforms to TSCA. Among other changes to TSCA, the Lautenberg Act amended TSCA section 8(b) to require EPA to establish: (1) An inventory of mercury supply, use, and trade in the United States; and (2) reporting requirements by rule applicable to any person who manufactures mercury or mercury-added products or otherwise intentionally uses mercury in a manufacturing process not later than June 22, 2018. (15 U.S.C. 2607(b)(10)). Information collected per the proposed reporting requirements would be used to periodically update the mercury inventory; identify any manufacturing processes or products that intentionally add mercury; and recommend actions, including proposed revisions of federal law or regulations, to achieve further reductions in mercury use (15 U.S.C. 2607(b)(10)). The Lautenberg Act also added certain mercury compounds to the TSCA section 12(c) ban on exporting of elemental mercury and authorized EPA to ban the export of additional mercury compounds by rule (15 U.S.C. 2611(c)). The Lautenberg Act also implemented other changes to the Mercury Export Ban Act of 2008 (MEBA) (Pub. L. 110–414, 122 Stat. 4341). Additional information on the Lautenberg Act is available on EPA's Web site at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act.*

C. Trends in Mercury Supply, Use, and Trade in the United States

Humans have mined, refined, and used mercury for a wide variety of purposes over thousands of years. In the United States, mercury was mined until 1991, but today is produced only as a byproduct of metals mining or by recovering mercury from waste (Ref. 8). In recent decades, mercury served as a catalyst in the chlor-alkali industry and in a variety of industrial, commercial, and consumer products (Ref. 8). Due to its toxicity and replacement by new technologies, many uses of mercury have been discontinued in the United States, and the overall quantity used has fallen dramatically in recent decades. For example, over the past three decades there has been a strong downward trend of more than 97 percent in the use of mercury in mercury-added products sold in the United States. In 1980, the United States used more than 1,800 metric tons of mercury in mercury-added products annually (Ref. 8). As described in the initial inventory conducted by EPA in 2017, by 2013, only approximately 40 metric tons of mercury in products were sold in the United States (Ref. 1). Many of these products sold have cost-effective, non-mercury substitutes (Ref. 1). The United States also has traded elemental mercury and mercury compounds worldwide, although MEBA prohibited the export of elemental mercury as of January 1, 2013 and prohibits the export of certain mercury compounds as of January 1, 2020.

Prior to developing its initial inventory, EPA reviewed federal and state reports and databases, among other sources, in order to assemble a collection of available information on mercury, mercury-added products, and manufacturing processes involving mercury (Ref. 1). In reviewing data obtained, the Agency found that its baseline of data lacked the specificity and level of detail required to develop a mercury inventory responsive to TSCA section 8(b)(10)(D) or to be useful to inform mercury use reduction efforts for both the public and private sectors (Ref. 1). For example, in 2015, to develop its understanding of domestic mercury supply and trade, the Agency collected information on the quantity of mercury sold in the United States for the years 2010 and 2013 from five companies identified as the primary recyclers and distributors of mercury in the United States (Ref. 9). Comparing totals for mercury sold in products and the amount of bulk mercury sold in the United States in 2013 revealed a significant data gap of approximately 26 metric tons. IMERC data showed approximately 40 metric tons of mercury in mercury-added products sold in the United States in 2013. The information collected by the Agency for bulk elemental mercury manufactured and processed in the United States in the same year was approximately 66 metric tons. In this instance, EPA determined that mercury may be used in manufacturing processes, including as a reactant or formulation component, which may not be reflected in the amount of mercury reported as sold in products. An additional data gap identified was the amount of mercury in exported mercury-added products. The Agency is also seeking to be able to differentiate between the amount of mercury in imported mercury-added products and the amount in mercury-added products manufactured in the United States. For example, importation or domestic manufacture of mercury-added products may or may not be reflected in data reported as domestic sale of mercury-added products. EPA is committed to further addressing such data gaps and considers the national mercury inventory mandated by Congress to be an instrumental means to establish the requisite body of information to support achievement of that goal.

D. Stakeholder Involvement

In developing the proposed rule, the agency coordinated with the Northeast Waste Management Officials' Association, which administers the IMERC database, as directed by TSCA section 8(b)(10)(D)(ii), to avoid duplication.

III. Summary of Proposed Rule

This proposed rule, when finalized, would provide for the collection of information that allows EPA to implement statutory requirements at TSCA section 8(b)(10)(B), which directs that ''[n]ot later than April 1, 2017, and every 3 years thereafter, the Administrator shall carry out and publish in the **Federal Register** an inventory of mercury supply, use, and trade in the United States'' (15 U.S.C. 2607(b)(10)(B)). TSCA section 8(b)(10)(D) directs the Agency to promulgate this reporting rule no later than two years after the date of enactment of the June 2016 TSCA amendments. Based on the inventory, the Agency is directed to ''identify any manufacturing processes or products that intentionally add mercury; and . . . recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use.'' At this time, EPA is not making such identifications or recommendations. EPA's proposal for fulfilling specific statutory provisions and terms are set forth by topic as follows.

A. Definition of Mercury

TSCA section 8(b)(10)(A) states ''notwithstanding [TSCA] section 3(2)(B), the term 'mercury' means . . . elemental mercury; and . . . a mercury compound'' (15 U.S.C. 2607(b)(10)(A)). As such, the definition for mercury at TSCA section 8(b)(10)(A) supersedes the exclusions for ''chemical substances'' described in TSCA section 3(2)(B) that would otherwise apply to mercury, mercury-added products, or otherwise intentional uses of mercury in manufacturing processes. For example, any ''drug, cosmetic, or device'' as described in TSCA section 3(2)(B)(vi),

should such items contain mercury, would not be excluded from reporting under the proposed rule.

For purposes of the proposed rule, the Agency proposes that where EPA distinguishes between elemental mercury and mercury compounds, elemental mercury be limited to elemental mercury (CASRN 7439–97–6) and mercury compounds be inclusive of all instances where elemental mercury or a mercury compound is reacted with another chemical substance. Examples of mercury compounds from the TSCA Chemical Substance Inventory are listed in Table 2.

TABLE 2—LIST OF MERCURY COMPOUNDS

Chemical Abstracts Registry No.	Mercury compound
10045–94–0	Nitric acid, mercury(2+) salt (2:1).
100–57–2	Mercury, hydroxyphenyl-.
10112–91–1	Mercury chloride (Hg2Cl2).
10124–48–8	Mercury amide chloride (Hg(NH2)Cl).
103–27–5	Mercury, phenyl(propanoato-.kappa.O.)-.
10415–75–5	Nitric acid, mercury(1+) salt (1:1).
104–60–9	Mercury, (9-octadecenoato-.kappa.O)phenyl-.
1191–80–6	9-Octadecenoic acid (9Z)-, mercury(2+) salt (2:1).
12068–90–5	Mercury telluride (HgTe).
13170–76–8	Hexanoic acid, 2-ethyl-, mercury(2+) salt (2:1).
13302–00–6	Mercury, (2-ethylhexanoato-.kappa.O)phenyl-.
1335–31–5	Mercury cyanide oxide (Hg2(CN)2O).
1344–48–5	Mercury sulfide (HgS).
1345–09–1	Cadmium mercury sulfide.
13876–85–2	Mercurate(2-), tetraiodo-, copper(1+) (1:2), (T–4)-.
138–85–2	Mercurate(1-), (4-carboxylatophenyl)hydroxy-, sodium (1:1).
141–51–5	Mercury, iodo(iodomethyl)-.
14783–59–6	Mercury, bis[(2-phenyldiazenecarbothioic acid-.kappa.S) 2-phenylhydrazidato-.kappa.N2]-, (T–4)-.
15385–58–7	Mercury, dibromodi-, (Hg-Hg).
15785–93–0	Mercury, chloro[4-[(2,4-dinitrophenyl)amino]phenyl]-.
15829–53–5	Mercury oxide (Hg2O).
1600–27–7	Acetic acid, mercury(2+) salt (2:1).
1785–43–9	Mercury, chloro(ethanethiolato)-.
19447–62–2	Mercury, (acetato-.kappa.O)[4-[2-[4-(dimethylamino)phenyl]diazenyl]phenyl]-.
20582–71–2	Mercurate(2-), tetrachloro-, potassium (1:2), (T–4)-.
20601–83–6	Mercury selenide (HgSe).
21908–53–2	Mercury oxide (HgO).
22450–90–4	Mercury(1+), amminephenyl-, acetate (1:1).
24579–90–6	Mercury, chloro(2-hydroxy-5-nitrophenyl)-.
24806–32–4	Mercury, [.mu.-[2-dodecylbutanedioato(2-)-.kappa.O1:.kappa.O4]]diphenyldi-.
26545–49–3	Mercury, (neodecanoato-.kappa.O)phenyl-.
27685–51–4	Cobaltate(2-), tetrakis(thiocyanato-.kappa.N)-, mercury(2+) (1:1), (T–4)-.
29870–72–2	Cadmium mercury telluride ((Cd,Hg)Te).
3294–57–3	Mercury, phenyl(trichloromethyl)-.
33770–60–4	Mercury, [3,6-dichloro-4,5-di(hydroxy-.kappa.O)-3,5-cyclohexadiene-1,2-dionato(2-)]-.
3570–80–7	Mercury, bis(acetato-.kappa.O)[.mu.-(3',6'-dihydroxy-3-oxospiro[isobenzofuran-1(3H),9'-[9H]xanthene]-2',7'-diyl)]di-.
537–64–4	Mercury, bis(4-methylphenyl)-.
539–43–5	Mercury, chloro(4-methylphenyl)-.
54–64–8	Mercurate(1-), ethyl[2-(mercapto-.kappa.S)benzoato(2-)-.kappa.O]-, sodium (1:1).
55–68–5	Mercury, (nitrato-.kappa.O)phenyl-.
56724–82–4	Mercury, phenyl[(2-phenyldiazenecarbothioic acid-.kappa.S) 2-phenylhydrazidato-.kappa.N2]-.
587–85–9	Mercury, diphenyl-.
592–04–1	Mercury cyanide (Hg(CN)2).
592–85–8	Thiocyanic acid, mercury(2+) salt (2:1).
593–74–8	Mercury, dimethyl-.
59–85–8	Mercurate(1-), (4-carboxylatophenyl)chloro-, hydrogen.
623–07–4	Mercury, chloro(4-hydroxyphenyl)-.
62–38–4	Mercury, (acetato-.kappa.O)phenyl-.
62638–02–2	Cyclohexanebutanoic acid, mercury(2+) salt (2:1).
627–44–1	Mercury, diethyl-.
6283–24–5	Mercury, (acetato-.kappa.O)(4-aminophenyl)-.
628–86–4	Mercury, bis(fulminato-.kappa.C)-.
629–35–6	Mercury, dibutyl-.
63325–16–6	Mercurate(2-), tetraiodo-, (T–4)-, hydrogen, compd. with 5-iodo-2-pyridinamine (1:2:2).
63468–53–1	Mercury, (acetato-.kappa.O)(2-hydroxy-5-nitrophenyl)-.
63549–47–3	Mercury, bis(acetato-.kappa.O)(benzenamine)-.
68201–97–8	Mercury, (acetato-.kappa.O)diamminephenyl-, (T–4)-.
72379–35–2	Mercurate(1-), triiodo-, hydrogen, compd. with 3-methyl-2(3H)-benzothiazolimine (1:1:1).
7439–97–6	Mercury.
7487–94–7	Mercury chloride (HgCl2).
7546–30–7	Mercury chloride (HgCl).
7616–83–3	Perchloric acid, mercury(2+) salt (2:1).
7774–29–0	Mercury iodide (HgI2).
7783–33–7	Mercurate(2-), tetraiodo-, potassium (1:2), (T–4)-.

TABLE 2—LIST OF MERCURY COMPOUNDS—Continued

Chemical Abstracts Registry No.	Mercury compound
7783–35–9	Sulfuric acid, mercury(2+) salt (1:1).
7783–39–3	Mercury fluoride (HgF2).
7789–47–1	Mercury bromide (HgBr2).
90–03–9	Mercury, chloro(2-hydroxyphenyl)-.
94070–93–6	Mercury, [.mu.-[(oxydi-2,1-ethanediyl 1,2-benzenedicarboxylato-.kappa.O2)(2-)]]diphenyldi-.

B. Explanation of Supply, Use, and Trade

Pursuant to TSCA section 8(b)(10)(B), EPA interprets the scope of the mercury inventory to include activities within the domestic and global commodity mercury market that would fall under ''supply, use, and trade of mercury in the United States.'' An inventory that adequately accounts for mercury in supply, use, and trade includes activities of persons who must report as described in TSCA section 8(b)(10)(d)(i): Manufacture, import, and otherwise intentionally use mercury in a manufacturing process. In addition, the Agency proposes that persons required to report to the mercury inventory also include information on distribution in commerce, storage, and export in order to provide for the requisite inventory of mercury supply, use, and trade in the United States. EPA proposes that reporting to cover ''supply'' include manufacture and storage of mercury, reporting to cover ''use'' include use of mercury to manufacture a mercury-added product or otherwise intentional use of mercury in a manufacturing process, and reporting to cover ''trade'' include import, export, and distribution in commerce of mercury or mercury-added products. EPA proposes that obtaining information related to such activities, including reporting quantities of mercury, as well as qualitative information related to supply, use, and trade, is necessary to create the inventory described at TSCA section 8(b)(10)(B). Examples of such qualitative information include: Country of origin (for imports of mercury or mercury-added products), destination country (for exported mercury-added products or certain mercury compounds), and identification of purchasing or receiving industry sectors via NAICS codes (for mercury or mercury-added products distributed in domestic commerce).

In addition to using this information for the mercury inventory, this information would be used by the U.S. Government to assist in its implementation of the Minamata Convention (Ref. 2), in particular with respect to mercury supply sources and trade, mercury-added products, manufacturing processes in which mercury is used, and reporting. The United States is a Party to the Minamata Convention, which is a multilateral environmental agreement that addresses the supply, use, and trade in mercury by, among other actions, not allowing the introduction of new mercury mines and the phasing out of existing ones, phasing out and phasing down the use of mercury in a number of products and industrial processes, placing control measures on emissions to air and on releases to land and water, and taking action to reduce the use of mercury in the informal sector of artisanal and small-scale gold mining. EPA seeks comment on the proposed limited data collection requirements, such as the identification of countries that manufacture, import, or export mercury-added products (*i.e.,* countries of origin and destination), as well as the identification of purchasing or receiving industry sectors via NAICS codes, to inform activities under the Minamata Convention.

In regard to certain exports of mercury, the Agency notes that the export of elemental mercury has been prohibited since January 1, 2013 (15 U.S.C. 2611(c)(1)) and therefore the Agency is not proposing to require reporting on the export of elemental mercury from the United States. TSCA, as of January 1, 2020, will also prohibit the export of certain mercury compounds: Mercury (I) chloride or calomel; mercury (II) oxide; mercury (II) sulfate; mercury (II) nitrate; and cinnabar or mercury sulphide (the statute uses the term ''mercury sulphide'' which is an alternative spelling of ''mercury sulfide'' as found in the table above) (15 U.S.C. 2611(c)(7)). EPA recognizes that a complete inventory would include at least one cycle of reporting prior to the effective date of the prohibition for export of the five mercury compounds subject to 15 U.S.C. 2611(c)(7). As such, the inventory would benefit from the recent totals of at least one cycle of reporting prior to the effective date of the prohibition for export of mercury compounds subject to 15 U.S.C. 2611(c)(7) to (1) measure trends in supply, use, and trade; and (2) provide a baseline for comparison of the changes in the amounts of other mercury compounds exported after the 2020 effective date. The Agency also recognizes that the 2020 effective date of 15 U.S.C. 2611(c)(7) is such that any reporting on those five compounds will not assist the Agency in recommending further actions to achieve further reductions in mercury use because the export ban will be in effect as of 2020. Therefore, EPA requests public comment on whether to require one-time reporting for exports of the mercury compounds prohibited from export by 15 U.S.C. 2611(c)(7). It should be noted that reporting for exports of mercury compounds that are not prohibited from export by 15 U.S.C. 2611(c)(7), as well as products that contain intentionally-added elemental mercury and/or any mercury compounds (including the compounds prohibited from export) will be required.

In order to obtain information for the mercury inventory with the necessary level of detail, EPA is proposing to require reporting on activities that are subsets of defined terms. For example, ''manufacture'' is defined in TSCA section 3(9) to mean: ''import into the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States), produce, or manufacture'' (15 U.S.C. 2602(9)). While both manufacture and import are described in the statutory definition of ''manufacture,'' the Agency proposes to separate reporting for these activities of the mercury market in order to capture distinct actions by persons who handle and trade mercury. As such, EPA is proposing that persons required to report specify distinct amounts, if any, of imported or otherwise manufactured mercury, as well as amounts of mercury in imported or otherwise manufactured mercury-added products.

Conversely, the activity ''otherwise intentionally uses mercury in a manufacturing process'' is not defined under TSCA. The Agency considers this activity to be similar, but not identical to the definition for ''process'' at TSCA section 3(13): ''preparation of a chemical substance or mixture, after its

manufacture, for distribution in commerce . . . in the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such substance or mixture, or . . . as part of an article containing the chemical substance or mixture'' (15 U.S.C. 2602(13)). EPA proposes to require reporting on both the otherwise intentional use of mercury in a manufacturing process, as well as manufacture of mercury or a mercury-added product, distinguished by focusing on how the mercury came to be present in a final product. For manufacture of mercury or a mercury-added product, the Agency views such activities to be the intentional addition of mercury where mercury remains present in the final product for a particular purpose. For otherwise intentional use of mercury in a manufacturing process, the Agency views such activities to be the intentional use of mercury, but where no mercury remains or any mercury present in the final product exists only as an impurity.

Finally, TSCA section 8(f) states ''[f]or purposes of [TSCA section 8], the terms 'manufacture' and 'process' mean manufacture or process for commercial purposes'' (15 U.S.C. 2607(f)). Under a TSCA section 8(a) reporting rule, EPA has previously defined ''manufacture for commercial purposes'' for the purposes of other information gathering rules to include ''import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer'' and ''substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture . . . [that] may, or may not, in themselves have commercial value'' (40 CFR 704.3). In the same rule, similarly, EPA has defined ''process for commercial purposes'' as ''the preparation of a chemical substance or mixture after its manufacture for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included in this definition. If a chemical substance or mixture containing impurities is processed for commercial purposes, then the impurities also are processed for commercial purposes'' (40 CFR 704.3). EPA notes that there is a separate definition for ''import for commercial purposes'' at 40 CFR 704.3, but finds it to be substantially similar to germane portions of ''manufacture for commercial purposes.''

EPA is proposing that the terms ''manufacture,'' ''import,'' and ''otherwise intentional use of mercury in a manufacturing process'' be interpreted for the purposes of mercury inventory reporting based on the aforementioned definitions in 40 CFR 704.3 and the statutory text at TSCA section 8(f). In regard to the manufacture (including import) of mercury as a byproduct, impurity, or similar occurrence, EPA considered whether such chemical substances are intentionally generated and whether such substances are used for commercial purposes. To synthesize these concepts, EPA is proposing to require reporting on mercury or mercury-containing byproducts manufactured for commercial purposes. Mercury generated as a byproduct not used for commercial purposes would not be subject to the proposed rule.

In addition, EPA is proposing that mercury that exists as an impurity would not be subject to the proposed rule, except where such impurities are present in a final product produced by persons who otherwise intentionally use mercury in a manufacturing process. EPA is distinguishing between the manufacture of mercury-added products versus the final products containing mercury that result from the intentional use of mercury in a manufacturing process. First, EPA considers the addition and presence of mercury in the final products of the former process to be intentional and, therefore, not an impurity. Conversely, EPA considers the presence of mercury in the final product resulting from the intentional use of mercury during the manufacturing processes identified in this proposed rule (see Unit III.D.5.) to be unintentional (*i.e.,* present as an impurity). Second, the Agency has less detailed institutional knowledge of this category of uses and is proposing to collect information on mercury that exists as an unintended impurity in products in such cases to better identify mercury use in manufacturing processes, as directed in TSCA section 8(b)(10)(C).

EPA determined that actions described in the definition of ''distribution in commerce'' at TSCA section 3(5): ''to sell, or the sale of, the substance, mixture, or article in commerce; to introduce or deliver for introduction into commerce, or the introduction or delivery for introduction into commerce of, the substance, mixture, or article; or to hold, or the holding of, the substance, mixture, or article after its introduction into commerce'' (15 U.S.C. 2602(5)), are adequate to describe both distribution in commerce and storage for the proposed rule. In particular, the Agency is interested in quantities of mercury sold or transferred between facilities in the United States. As such, EPA is proposing to incorporate the concept of ''domestic'' as defined at 40 CFR 704.3 to activities considered to be distribution in commerce, as opposed to international import and export, which would be covered separately. Where ''to hold'' or ''holding of'' (*i.e.,* storage) is concerned, EPA is proposing to require reporting for quantities of mercury stored, if any, by persons who manufacture (including import) mercury, as well as those who otherwise intentionally use mercury in a manufacturing process. Mercury stored by persons who only produce mercury-added products would not be required to be reported. Moreover, the Agency is not proposing to require reporting for quantities of mercury within mercury-added products that are stored after manufacture and prior to distribution in commerce. EPA assumes the quantity of mercury that manufacturers of mercury-added products store for later use or keep within product inventories is likely to be too small to help explain the information gap between sold and used mercury. The expected value of the information is likely to be low considering the burden and cost on reporters.

The Agency considered ''export'' in the context of ''exporter'' as defined in the TSCA section 12(b) export notification rule at 40 CFR part 707 Subpart D: ''determining and controlling the sending of the chemical substance or mixture to a destination out of the customs territory of the United States'' 40 CFR 707.63(b). For purposes of the proposed rule, however, the Agency believes that it is necessary to collect export data not only on certain mercury compounds, but also mercury-added products that are exported from the United States. As such, EPA would include articles in the reporting required for export.

Therefore, in summary, the Agency proposes to require reporting for the following activities:

- Import of mercury or a mercury-added product with the purpose of obtaining an immediate or eventual commercial advantage for the importer, except where such mercury is generated as a byproduct not used for commercial purposes or an impurity.

• Manufacture (other than import) of mercury or a mercury-added product with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, except where such mercury is generated as a byproduct not used for commercial purposes or an impurity. In this context, EPA considers manufacture to be the intentional production of mercury, a mercury compound, or a mercury-added product, as opposed to the uses described for ''otherwise intentionally uses mercury in a manufacturing process.'' Incidental manufacture of mercury (*e.g.,* burning of coal or similar) would not be subject to the proposed rule.

• Otherwise intentional use of mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product, with the purpose of obtaining an immediate or eventual commercial advantage for the user, except where such mercury is generated as a byproduct not used for commercial purposes.

• Distribution in commerce, including domestic sale or transfer, of mercury or a mercury-added product.

• Storage of mercury after manufacture (including import).

• Export of mercury or a mercury-added product, including the determining and controlling the sending of mercury (unless specifically prohibited) or a mercury-added product to a destination out of the customs territory of the United States.

These proposed interpretations of terms are intended to align with the structure and logical flow of reporting requirements described in Unit III.E. Nonetheless, EPA requests comment on the proposed interpretations of activities to be considered as part of supply, use, and trade of mercury in the United States.

C. Coordination With Existing Reporting Programs

TSCA section 8(b)(10)(D)(ii) directs the Agency to ''coordinate the reporting . . . with the Interstate Mercury Education and Reduction Clearinghouse'' to avoid duplication (15 U.S.C. 2607(b)(10)(D)(ii)). Furthermore, TSCA section 8(a)(5)(a) states ''[i]n carrying out [TSCA section 8], the Administrator shall, to the extent feasible . . . not require reporting which is unnecessary or duplicative'' (15 U.S.C. 2607(a)(5)(a)). The Agency seeks to avoid collecting data on mercury that would duplicate information already reported to existing state and federal programs, and to coordinate with and complement those reporting programs as much as possible. While developing this proposed rule, EPA reviewed four data collection systems applicable to supply, use, and trade of mercury (including mercury-added products and mercury used in manufacturing processes): IMERC, the TSCA section 8(a) Chemical Data Reporting rule, the Toxics Release Inventory (TRI) program, and the U.S. International Trade Commission Interactive Trade DataWeb (USITC DataWeb).

1. *IMERC.* IMERC is an online reporting database managed by the Northeast Waste Management Officials' Association (NEWMOA), which provides publicly available, national data on mercury used in products. Laws in certain states (Connecticut, Louisiana, Maine, Massachusetts, New Hampshire, New York, North Carolina, Rhode Island, and Vermont—hereinafter ''IMERC Notification states'') require companies that manufacture, distribute, or import mercury-added products to identify the mercury-added products they sell and the volume of mercury in them. The volume information is reported at a national level, although only companies selling mercury products within those states need to report. The IMERC database houses the information that is reported to IMERC Notification states on a triennial basis and provides a detailed picture of some aspects of the mercury product market. There are, however, some concerns about whether all nationwide sales are captured (*i.e.,* no reporting requirement for a company that sells mercury-added products exclusively outside of IMERC Notification states). Despite such concerns and given the statutory direction to coordinate both programs, EPA recognizes that the proposed rule and IMERC reporting requirements for mercury-added products should be harmonized to the greatest extent practicable.

While developing this proposed rule, the Agency coordinated with IMERC and NEWMOA to ensure that data collected in accordance with the proposed reporting requirements and existing IMERC reporting requirements would not be duplicative and that information collected would be shared to the greatest extent practicable. The Agency is designing the electronic reporting application for the mercury inventory that would automatically skip certain reporting requirement fields when users indicate they report to the IMERC Mercury-Added Products Database. Such users would automatically bypass mercury inventory reporting requirements that are comparable to those reported to IMERC. Specifically, those that report to IMERC would not be required to report the amount of mercury distributed in commerce under this proposed rule because EPA believes that information is captured by IMERC as national sales data. However, those that report to IMERC would still be required to provide qualitative data—NAICS codes related to sales data—as part of the distribution in commerce reporting requirement (see Table 4—Information to Report—Mercury-Added Products).

2. *TSCA Chemical Data Reporting Rule.* EPA also sought to avoid duplicating the mercury reporting requirements of its own CDR rule (Ref. 10) and reporting to the TRI program (Ref. 11). The CDR rule collects manufacturing, processing, and use information on certain chemical substances manufactured (including imported) in the United States. Persons required to report include those that manufacture (including import) for commercial purposes in excess of 2,500 lbs. for a specific reporting year for substances meeting certain criteria, which include elemental mercury; or in excess of 25,000 lbs. for a specific reporting year for most other substances, which include mercury compounds.

In general, CDR reporters do not report information on chemical substances in articles, unless they first import or domestically manufacture the chemical substance that they then incorporate into an article or product (Ref. 12). As discussed in regard to coordinating with IMERC to avoid duplicative reporting, the Agency's intended design for the reporting application for the mercury inventory would allow a CDR reporter to automatically skip certain reporting requirement fields that would be considered duplicative. As an example, those that report to CDR would not be required to provide the amount of mercury imported, however, they would be required to provide qualitative information—in this example the country of origin—as part of the reporting requirement (see Table 3—Information to Report—Mercury).

3. *Toxics Release Inventory.* The TRI program collects data on toxic chemical releases to air, water and land from industrial facilities and pollution prevention activities in the United States. The TRI program requires reporting when covered facilities in covered industrial sectors manufacture, process, or otherwise use more than 10 lbs. of elemental mercury and/or mercury compounds per year. However, while the TRI program requires reporters to specify whether mercury is manufactured, processed, or otherwise

used in activities comparable to the proposed rule (*e.g.,* article component, formulation component, reactant, chemical processing aid, manufacturing aid), it does not require reporting of quantitative data on amounts of mercury used for such activities or the kind of article involved.

4. *USITC DataWeb.* Additionally, EPA reviewed the USITC DataWeb, which provides U.S. international trade statistics and U.S. tariff data to the public (Ref. 13). All trade data are compiled from official data retrieved from the U.S. Bureau of the Census (Census). Data on U.S. exports of merchandise from the United States to all countries, except Canada, are compiled from the Electronic Export Information filed by the U.S. Principal Party in Interest or their agents through the Automated Export System. Published data on U.S. imports of merchandise are compiled primarily from automated data submitted through the Automated Commercial System of U.S. Customs and Border Protection (CBP). Data are also compiled from import entry summary forms, warehouse withdrawal forms and Foreign Trade Zone documents as required by law to be filed with CBP.

After reviewing these reporting programs, EPA has sought to design the proposed reporting requirements to be least burdensome for reporters already familiar with IMERC, CDR, TRI, and USITC DataWeb protocol. Therefore, the Agency is proposing to incorporate comparable reporting concepts and tools from each program, as well as propose some exemptions, in an attempt to increase the efficacy of while decreasing the burden to the greatest extent practicable for reporting to a national mercury inventory. EPA is seeking comment on the incorporation of the reporting concepts and tools from each program, as well as the proposed exemptions.

D. Persons Who Must Report

TSCA section 8(b)(10)(D)(i) states ''any person who manufactures mercury or mercury-added products or otherwise intentionally uses mercury in a manufacturing process shall make periodic reports to the Administrator'' (15 U.S.C. 2607(b)(10)(D)(i)). As explained in Unit III.B., EPA interprets the statutory text at TSCA sections 8(b)(10)(B), 8(b)(10)(D)(i), and 8(b)(10)(D)(iii) as applying to intentional acts that introduce mercury into supply, use, and trade in the United States. Furthermore, EPA reads TSCA section 8(b)(10)(D)(i) to narrow potential reporters to persons who first manufacture mercury or mercury-added products or otherwise intentionally use mercury in a manufacturing process. As such, EPA determined that persons who merely trade (*e.g.,* brokering, selling wholesale, shipping, warehousing, repackaging, or retail sale), but do not manufacture or import mercury or mercury-added products, should not be subject to the proposed reporting requirements. Aside from its reading of TSCA section 8(b)(10)(D)(i), the Agency is concerned that requiring reporting from such entities risks: (1) Double-counting of mercury as it moves through supply chains; and (2) undue burden or liability on entities that are not likely to be aware if or how mercury is present in products that they trade.

1. Exemption for Persons Who Generate, Handle, or Manage Mercury-containing Waste. Persons ''engaged in the generation, handling, or management of mercury-containing waste, unless that person manufactures or recovers mercury in the management of that waste'' are not required to report to the mercury inventory (15 U.S.C. 2607(b)(10)(D)(iii)). There are generally four sources of mercury-containing waste: (1) Industrial processes, which often generate a mixture of elemental mercury or mercury compounds combined with other substances; (2) the discard of mercury-added products such as fluorescent lamps; (3) the discard of elemental mercury (*e.g.* surplus commodity mercury); and (4) mercury-contaminated environmental media that are excavated as part of a contaminated site clean-up. Mercury-containing waste that is hazardous is regulated by the Resource Conservation and Recovery Act (RCRA).

EPA considers the following examples of persons and waste types to be exempt from reporting to the proposed rule:

- Hazardous waste treatment facilities that stabilize and landfill low-concentration mercury-containing waste.
- Manufacturing facilities that:

—Generate a mercury-containing waste and send it to a waste management facility.

—Use mercury to manufacture products or otherwise intentionally use mercury in a manufacturing process, and also generate a mercury-containing waste from that use or another process. The exemption applies to the mercury in the facility's waste but not to the quantity it uses. Under the proposed rule, the facility would report on the quantity it uses.

—Discard mercury-added products, such as fluorescent light bulbs, switches, and thermometers, unless the facility also intentionally uses mercury in a manufacturing process. In that case, the facility would report the mercury it uses, but not the mercury in the products it discards because the products and the mercury within them are waste.

- A person who uses a mercury-added product but does not manufacture mercury or mercury-added products and does not intentionally use mercury in a manufacturing process.
- Hazardous waste treatment facilities that recover elemental mercury from mercury-containing waste and manage that elemental mercury as a waste. There are currently two primary ways in which recovered elemental mercury can be managed as a waste: Placed in long-term storage at a facility with a RCRA permit as allowed under Section 5(g) of MEBA, or converted to mercury sulfide and exported for disposal.
- A generator producing mercury incidentally from the beneficiation or processing of ore or related pollution control activities, who accumulates this mercury on-site.
- A generator who temporarily stores waste elemental mercury for up to 90 or 180 days pending shipment for long-term storage or for treatment and disposal. The elemental mercury in all of these cases is not subject to the proposed rule.

EPA seeks comments on the examples provided and requests input on other relevant examples that may be useful.

The exemption at 15 U.S.C. 2607(b)(10)(D)(iii) does not apply to persons who manufacture or recover elemental mercury in the management of mercury-containing waste with the intent to use it or store it for use. For example, if a waste treatment facility retorts or distills mercury-containing waste to recover elemental mercury and then sells or stores the mercury for later sale, that person is considered to be a manufacturer of mercury and must report to the proposed rule for the amount of elemental mercury it sells or stores. If any manufacturer covered by the proposed rule decides at any time to manage the elemental mercury as a waste, that mercury is subject to the RCRA, but not to the proposed rule. Elemental mercury that is stored under MEBA or converted to a mercury compound and disposed of remains a waste, that is, its status cannot change from waste to commodity mercury.

2. *Reporting Threshold.* As discussed in Unit III.C., the Agency compared existing state and federal reporting databases applicable to the supply, use, and trade of mercury. EPA conducted this review in an attempt not only to eliminate duplicative reporting

requirements, but also to incorporate applicable features of such programs, including the consideration of respective reporting thresholds.

The statutory text at TSCA section 8(b)(10) is silent on a reporting threshold; however, TSCA section 8(b)(10)(C) directs the Agency to ''identify any manufacturing processes or products that intentionally add mercury'' (15 U.S.C. 2607(10)(b)(C)). The Agency interprets the direction to ''identify any'' to apply to any amount of mercury in a manufacturing process or product. When considered in light of the statutory text at TSCA section 8(b)(10)(C), as well as concerns related to the potential adverse effects on human health and the environment resulting from releases of mercury, the Agency finds that it would be inappropriate to propose a threshold under which reporting would not be required. Therefore, EPA proposes to apply the proposed reporting requirements to any person who manufactures (including imports) mercury, mercury-added products or otherwise intentionally uses mercury in a manufacturing process regardless of the amount of mercury at issue. EPA seeks comment on this approach.

The absence of a reporting threshold is consistent with IMERC reporting requirements, which apply to the intentional addition of mercury to a product, including where ''mercury is intentionally added for any reason or that incorporates a component to which mercury was intentionally added'' (Ref. 14). Because of the similarities in the intentional addition of mercury to manufacture a product and otherwise intentional use of mercury in a manufacturing process, EPA determined that all quantities of mercury used in both activities should be reported without a reporting threshold. EPA seeks comment on this approach.

By comparison, the CDR rule contains reporting thresholds for chemical substances, including elemental mercury and mercury compounds. EPA interprets the mandate in TSCA section 8(b)(10)(B) to call for a comprehensive inventory such that existing data gaps would be eliminated, where feasible. The Agency also seeks as much as possible to complement amounts of quantitative mercury data already collected by, but without overlapping with, reporting requirements of the CDR rule. In general, the Agency seeks to require reporting for persons who manufacture (including import) mercury in quantities less than the CDR thresholds for elemental mercury (2,500 lbs.) and mercury compounds (25,000 lbs.). The coordination between additional, proposed reporting requirements and the CDR rule are discussed in ''*Persons Who Manufacture (Including Import) Mercury.*''

3. *Persons Who Manufacture (Including Import) Mercury.* As described in Unit III.B., manufacture and import for the purpose of the proposed rule would include the manufacture (including import) of mercury. Although not exhaustive, persons who engage in the following activities would be required to report under the proposed rule (see Table 3. Information to Report—Mercury):

- Mining (including extraction and beneficiation processes) mercury;
- Generating or isolating mercury during ore, petroleum, or natural gas refining;
- Retorting, recovering, or recycling (including purifying) mercury from waste streams;
- Chemical manufacturing of mercury;
- Importing mercury; or
- Capturing mercury using methods to reduce emissions of hazardous air pollutants, unless the captured mercury is generated, handled, or managed as a waste or is identified as an impurity.

As described in Unit III.C., the Agency is seeking to decrease the burden of reporting to the greatest extent practicable by, among other things, complementing without overlapping existing reporting requirements related to mercury and mercury-added products. As such, EPA proposes that persons who manufacture (including import) for commercial purposes in excess of 2,500 lbs. for elemental mercury or in excess of 25,000 lbs. for mercury compounds for a specific reporting year would not be required to report amounts manufactured (including imported) or exported that are already reported per the CDR rule. Such persons would, however, be required to provide quantitative data on storage and distribution in commerce, as well as qualitative and contextual information related to all applicable data elements under the proposed rule. In further efforts to decrease reporting burdens, the Agency intends to provide pre-selected lists of mercury compounds to streamline reporting requirements as much as possible.

TABLE 3—INFORMATION TO REPORT—MERCURY

Persons who must report	Potential reporting requirements
Persons who manufacture (including import) mercury in amounts greater than or equal to 2,500 lbs. for elemental mercury or greater than or equal to 25,000 lbs. for mercury compounds for a specific reporting year (i.e., current CDR reporters).	—Country(ies) of origin for imported mercury. —Country(ies) of destination for exported mercury. —Amount of mercury stored (lbs.). —Amount of mercury distributed in commerce (lbs.). —NAICS code(s) for mercury distributed in commerce. —As applicable, specific mercury compound(s) from pre-selected list.
All other persons who manufacture (including import) mercury	—Amount of mercury manufactured (lbs.). —Amount of mercury imported (lbs.). —Country(ies) of origin for imported mercury. —Amount of mercury exported (lbs.), except mercury prohibited from export at 15 U.S.C. 2611(c)(1) and (7). —Country(ies) of destination for exported mercury. —Amount of mercury stored (lbs.). —Amount of mercury distributed in commerce (lbs.). —NAICS code(s) for mercury distributed in commerce. —As applicable, specific mercury compound(s) from pre-selected list.

4. *Persons Who Manufacture or Import Mercury-added Products.* As described in Unit III.B., EPA is proposing to require reporting for manufacture (including import) mercury-added products, except import of a product that contains mercury solely as a component that is a mercury-added product. The Agency proposes that a person who imports a product that contains a component that is a mercury-added product (*e.g.,* toy or

novelty item containing a mercury-added battery) would not be required to report under the proposed rule. EPA determined that this distinction was appropriate after reviewing the data reported to the IMERC Mercury-Added Products Database and comparing the companies that reported national sales data for individual mercury-added products (including components), as well as items that would be considered to contain a component that is a mercury-added product (Ref. 15). For example, companies that report to IMERC for sales of appliances and vehicles list lamps as a mercury-added component. The Agency is interested in collecting data on original manufacturers (including importers) and users of mercury and believes that requiring certain contextual data (*e.g.,* NAICS codes) would sufficiently describe the use of mercury-added components by companies who do not first manufacture, import, or otherwise intentionally use mercury. Based on its review of the companies who report to IMERC and the types of mercury-added products reported, the Agency is concerned that requiring reporting for products where mercury is present solely within a previously manufactured component poses risks of double-counting and thereby could negatively affect the reliability of future mercury inventory updates.

EPA also is concerned that requiring reporting for a product that contains a mercury-added component could create undue burden for certain importers. For example, the Agency concluded that it is more likely that an importer of batteries would know if the specific kind of battery contained mercury, as opposed to an importer of toys that may or may not contain a mercury-added battery. However, EPA requests comment on whether persons who manufacture (including import) items that contain components that are mercury-added products should also report under the proposed rule.

In addition, the Agency is aware of transactions where a consumer directly orders mercury-added drugs (*e.g.,* hemorrhoid ointments, lotions, contact-lens solutions, and nasal sprays) and medical devices (*e.g.,* thermometers and blood pressure devices) from foreign vendors. These parcels typically enter the United States via international mail and are processed at international mail facilities by the U.S. Postal Service, U.S. Customs and Border Protection, or the U.S. Food and Drug Administration. The addressee on the parcel is considered to be the importer of record. If an express courier is used, the express courier may assume the role of the importer of record. In the case where an individual consumer is purchasing and importing a mercury-added product for personal use, the Agency believes that the proposed rule does not apply to such persons. Furthermore, the proposed rule would not apply to persons engaged in the delivery of such mercury-added products to an individual consumer, even if the delivery service constitutes import and distribution in commerce. In both scenarios, the persons who are importing the mercury-added product are not doing so ''with the purpose of obtaining an immediate or eventual commercial advantage for the importer.'' However, if a delivery service intentionally specialized in part or whole in the import and distribution in commerce of mercury-added products, then that person (or company) would be required to report to the mercury inventory.

Although not exhaustive, persons who engage in the following activities would be required to report under the proposed rule (see Table 4. Information to Report—Mercury-Added Products):

- Importing mercury-added products (except the import of a product that contains a component that is a mercury-added product); or
- Producing mercury-added products (*e.g.,* inserting mercury into a switch or battery, or mixing a mercury compound with other substances to formulate a topical antiseptic).

Examples of persons who would not be required to report to this proposed rule include:

- Manufacturers of concrete made from coal ash that contains mercury, but where such mercury originated from coal burned as a fuel source (*i.e.,* mercury was not intentionally added to the coal ash or the concrete);
- Fuel blenders who combine materials that might contain mercury, but are not chosen for blending because they contain mercury;
- Consumers who purchase and import mercury-added products for personal use from a foreign vendor; or,
- Persons engaged in the delivery of mercury-added products to an individual consumer, unless the delivery service intentionally specializes in part or whole in the import and distribution in commerce of mercury-added products.

For mercury-added products, the Agency seeks not only to balance efforts to increase the efficacy of reporting while decreasing the burden to the greatest extent practicable, but also to fully describe applicable sectors of the mercury market. As described in Unit III.C., persons who report to IMERC identify the amount of mercury sold in mercury-added products that may be manufactured, distributed, or imported. The Agency considers the amount of mercury reported to IMERC as sold to be comparable to the amount of mercury to be reported under the proposed rule as distributed in commerce. As such, EPA proposes that persons reporting to IMERC would not need to report amounts of mercury distributed in commerce under the proposed rule. However, those persons would need to report quantitative and qualitative information for other applicable data elements. Under the proposed rule, such persons also would be required to report contextual information applicable to amounts, if any, of mercury manufactured, imported, distributed in commerce, or exported. In further efforts to decrease reporting burdens, the Agency intends to provide pre-selected lists of mercury-added product categories to streamline reporting requirements as much as possible.

TABLE 4—INFORMATION TO REPORT—MERCURY-ADDED PRODUCTS

Persons who must report	Potential reporting requirements
Persons who manufacture (including import) mercury-added products, except a product that contains a component that is a mercury-added product, who currently report to IMERC.	—Amount of mercury in manufactured products (lbs.). —Amount of mercury in imported products (lbs.). —Country(ies) of origin for imported products. —Amount of mercury in exported products (lbs.). —Country(ies) of destination for exported products. —NAICS code(s) for products distributed in commerce. —As applicable, specific product category(ies) and subcategory(ies) from pre-selected list.

TABLE 4—INFORMATION TO REPORT—MERCURY-ADDED PRODUCTS—Continued

Persons who must report	Potential reporting requirements
All other persons who manufacture (including import) mercury-added products, except a product that contains a component that is a mercury-added product.	—Amount of mercury in manufactured products (lbs.). —Amount of mercury in imported products (lbs.). —Country(ies) of origin for imported products. —Amount of mercury in exported products (lbs.). —Country(ies) of destination for exported products. —Amount of mercury in products distributed in commerce (lbs.). —NAICS code(s) for products distributed in commerce. —As applicable, specific product category(ies) and subcategory(ies) from pre-selected list.

5. *Persons Who Otherwise Intentionally Use Mercury in a Manufacturing Process.* As described in Unit III.B., TSCA section 8(b)(10)(d)(i) includes persons who intentionally use mercury in a manufacturing process amongst those who must report. Examples of persons who otherwise intentionally use mercury in a manufacturing process that would be required to report under the proposed rule include, but are not limited to (see Table 5. Information to Report—Otherwise Intentional Use of Mercury in a Manufacturing Process):

- Producers of chlorine (*e.g.,* mercury-cell chlor-alkali process);
- Producers of polyurethane elastomer; or
- Producers of other commercial chemicals (except mercury compounds).

Unlike manufacturers (including importers) of mercury and mercury-added products, the Agency believes that persons who otherwise intentionally use mercury in a manufacturing process may currently report to existing data collection programs in the United States; however, the reporting requirements for those programs cover only some of the data elements that would be required of EPA for the mercury inventory. As such, the general, specific, and contextual reporting requirements proposed by EPA are intended to provide a complete picture of uses for which little information is currently available. In further efforts to decrease reporting burdens, the Agency intends to provide pre-selected lists of manufacturing processes and attendant uses of mercury to streamline reporting requirements as much as possible.

TABLE 5—INFORMATION TO REPORT—OTHERWISE INTENTIONAL USE OF MERCURY IN A MANUFACTURING PROCESS

Persons who must report	Potential reporting requirements
Persons who otherwise intentionally use mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product.	—Amount of mercury intentionally used (lbs.) in pre-selected list of manufacturing processes. —Amount of mercury stored (lbs.). —Amount of mercury in exported final product(s) (lbs.). —Country(ies) of destination for exported final product(s). —Amount of mercury in final product(s) distributed in commerce (lbs.). —NAICS code(s) for mercury in final product(s) distributed in commerce. —As applicable, specific manufacturing process from pre-selected list. —As applicable, specific use of mercury in manufacturing process from pre-selected list.

To the extent that the proposed persons who must report and descriptions and examples of the kinds of information to be reported can be clarified, the Agency welcomes comment on the aforementioned discussion and tables. In addition, the Agency requests comment on whether other persons should be required to report or, in the alternative, if any of the proposed persons should not report.

6. *Consideration of Small Entities.* Based on EPA's economic assessment of the proposed rule (Ref. 3), approximately 40 percent of the respondents will be small entities. However, small businesses are not exempt from reporting requirements because, unlike the exemption for small manufacturers and processors provided under TSCA 8(a)(1)(A) and (B), reporting and recordkeeping requirements associated with TSCA section 8(b) are applicable to all affected entities. EPA is striving to minimize the burden on all respondents, including small entities, as much as possible by developing the reporting application and database to be user-friendly and dynamic, consisting of straightforward questions that are to include fill-in-the-blank (numbers) fields, check boxes, and drop down menus.

In addition, the Agency is considering the development of compliance guides tailored to small entities that will be required to comply with the reporting requirements. EPA requests public comment on what kinds of information would be particularly important to address for small entities in such compliance guides. EPA expects to conduct outreach and webinars for small businesses to introduce the reporting database, explain requirements, and offer Q&A and other support. Under TSCA section 26(d), EPA also provides specialized assistance to respondents, particularly to small entities, including technical and other non-financial assistance to manufacturers and processors of chemical substances. EPA's TSCA Hotline assists small businesses complying with TSCA rules and provides various materials such as copies of **Federal Register** notices, advisories, and other information upon request. Contact information for the TSCA Hotline is listed under **FOR FURTHER INFORMATION CONTACT**.

E. Reporting Requirements

TSCA section 8(b)(10)(B) sets the general scope of the inventory as the ''mercury supply, use, and trade in the

United States'' (15 U.S.C. 2607(b)(10)(B)). EPA interprets the core elements to be covered in the mercury inventory to be the amount of mercury used in the activities within the mercury market described in Unit III.B. (*i.e.,* manufacture, import, export, storage, distribution in commerce, and otherwise intentional use of mercury in a manufacturing process). EPA also determined that, for certain elements, requiring reporting of more specific information would help to better contextualize reported quantities of mercury used in domestic and, where appropriate, global supply, use, and trade. The proposed general, specific, and contextual reporting requirements are described in this section.

1. *General Reporting Requirements.* EPA considers ''supply'' to include manufacture and storage, ''use'' to include otherwise intentional use of mercury in a manufacturing process, and ''trade'' to include import, export, and distribution in commerce. The Agency is proposing that accounting for such activities is necessary to fulfill statutory mandates at TSCA sections 8(b)(10)(B) and (C). Therefore, for persons required to report (as described in Unit III.D.), EPA proposes reporting quantitative data for mercury, mercury-added products, and otherwise intentional use of mercury in a manufacturing process (as qualified from existing terms as discussed in Unit III.B.) as follows:

a. *Importers of mercury:* Amount of mercury imported per year (lbs.); Amount of mercury stored per year (lbs.); Amount of mercury distributed in commerce per year (lbs.); Amount of mercury exported per year (lbs.).

b. *Manufacturers (other than importers) of mercury:* Amount of mercury manufactured (other than imported) per year (lbs.); Amount of mercury stored per year (lbs.); Amount of mercury distributed in commerce per year (lbs.).

c. *Importers of any mercury-added product other than a product that contains a component that is a mercury-added product* (NOTE—see Unit III.D.): Amount of mercury in imported products per year (lbs.); Amount of mercury in products distributed in domestic commerce per year (lbs.); Amount of mercury in exported products per year (lbs.).

d. *Manufacturers (other than importers) of any mercury-added product other than a product that contains a component that is a mercury-added product* (NOTE—see Unit III.D.): Amount of mercury in manufactured (other than imported) products per year (lbs.); Amount of mercury in products distributed in commerce per year (lbs.); Amount of mercury in exported products per year (lbs.).

e. *Persons who intentionally use mercury in manufacturing processes, other than the manufacture of a mercury compound or a mercury-added product:* Amount of mercury used in a manufacturing process per year (lbs.); Amount of mercury stored per year (lbs.); Amount of mercury distributed in commerce in final product(s) of manufacturing process per year (lbs.); Amount of mercury exported in final product(s) of manufacturing process per year (lbs.).

EPA understands that certain persons may report for multiple activities associated with supply, use, and trade of mercury. For example, a person may import mercury and manufacture mercury-added products. As such, the Agency attempted to design the proposed quantitative data elements for reporting requirements such that a person could report both as an ''importer of mercury'' and ''manufacturer of mercury-added products,'' but only report for the specific activity in which they engage. The Agency expects there may be certain persons engaged in the supply, use, and trade of mercury who might not be accounted for in the inventory, but EPA views this omission of prospective reporters as an opportunity to limit undue burden and avoid double-counting. Thus, the Agency is proposing to limit the persons who must report at TSCA section 8(b)(10)(D)(i) to only those persons described in Unit III.D. However, EPA requests comment on whether the proposed reporting requirements should apply to persons who do not manufacture or import mercury or mercury-added products, or otherwise intentionally use mercury in a manufacturing process, but engage in the supply, use, and trade of mercury in the United States.

2. *Specific Reporting Requirements.* To better understand the categories of mercury-added products and otherwise intentional use of mercury in a manufacturing process, the Agency also proposes to require reporters to identify the specific categories and subcategories of products and functional uses for which quantitative data is reported. The Agency believes this is an appropriate interpretation of the direction to ''identify any manufacturing processes or products that intentionally add mercury,'' which, in turn, could inform how to ''recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use'' (15 U.S.C. 2607(b)(10)(C)). Persons required to report would provide the total amount of mercury used during the reporting year in pounds for general reporting activities associated with supply, use, and trade, rather than per category and subcategory. EPA based this decision on issues concerning burden and confidential business information that could be created by reporting quantitative information for increasingly specific categories and subcategories. Nonetheless, EPA requests comment on whether quantitative information should be required for such specific reporting categories and subcategories, as well as on the reporting categories and subcategories.

a. *Mercury-added products.* Based on the current knowledge of mercury-added products available in the marketplace, including skin products manufactured abroad and sold illegally in the United States (Ref. 16), EPA proposes the following list of categories and subcategories of mercury-added products:

- *Batteries:* Button cell, silver; Button cell, zinc-air; Button cell, alkaline; Stacked button cell batteries; Manganese oxide; Silver oxide; Mercuric oxide, non-button cell; Button cell, mercuric oxide; Button cell, zinc carbon; Other (specify).
- *Dental amalgam.*
- *Formulated products (includes uses in cosmetics, pesticides, and laboratory chemicals):* Skin-lightening creams; Lotions; Soaps and sanitizers; Topical antiseptics; Bath oils and salts; Preservatives (*e.g.,* for use in vaccines and eye-area cosmetics when no preservative alternatives are available); Pharmaceuticals (including prescription and over-the-counter drug products); Cleaning products (not registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act); Pesticides; Paints; Dyes; Reagents (*e.g.,* catalysts, buffers, fixatives); Other (specify).
- *Lighting, lamps, bulbs:* Linear fluorescent; Compact fluorescent; U-tube and circular fluorescent; Cold cathode fluorescent; External electrode fluorescent; Mercury vapor; Metal halide; High pressure sodium; Mercury short arc; Neon; Other (specify).
- *Measuring instruments:* Barometer; Fever thermometer; Flow meter; Hydrometer; Hygrometer/psychrometer; Manometer; Non-fever thermometer; Pyrometer; Sphygmomanometer; Other (specify).
- *Pump seals.*
- *Switches, relays, sensors, valves:* Tilt switch; Vibration switch; Float switch; Pressure switch; Temperature switch; Displacement relay; Wetted reed

relay; Contact relay; Flame sensor; Thermostat; Other (specify).

• *Miscellaneous mercury-added products:* Wheel weights; Wheel rotation balancers/stabilizers; Firearm recoil suppressors; Carburetor synchronizers; Joint support/shock absorption bands; Other (specify).

b. *Intentional mercury use in manufacturing processes.* Based on the current knowledge of manufacturing processes involving the otherwise intentional use of mercury, EPA proposes the following manufacturing processes for which mercury may be intentionally used: Chlorine production (*e.g.,* mercury-cell chlor-alkali process); Acetaldehyde production; Vinyl chloride monomer production; Sodium/potassium methylate/ethylate production; Polyurethane/plastic production; Other (specify).

EPA proposes the following list of uses of mercury in the aforementioned manufacturing processes: Catalyst; Reactant; Reagent; Other (specify).

3. *Contextual Reporting Requirements.* Within certain sectors of the mercury market, the Agency determined that additional data requirements are important to provide context to the quantitative data reported. While the individual quantities and overarching, categorical sums can help to fulfill the statutory mandate to identify manufacturing processes or products that intentionally add mercury, EPA seeks to collect information to more thoroughly describe such activities and enhance efforts to recommend actions to achieve further reductions in mercury use, as mandated in TSCA section 8(b)(10)(C). Examples of such data requirements include descriptions of countries of origin or destination for reported import and export quantities, as well as NAICS codes for purchasing or receiving industries for mercury or mercury-added products distributed in commerce. In order to fully understand the supply, use, and trade or mercury in the United States, EPA proposes the following reporting requirements:

a. *For imports of mercury or mercury-added products:* Country of origin.

b. *For mercury or mercury-added products distributed in commerce:* Identify the applicable purchasing or receiving industry sectors via NAICS codes.

c. *For exported mercury or mercury-added products:* Destination country.

The Agency determined that the combination of general, specific, and contextual reporting requirements provides for the body of information required to fulfill statutory mandates of TSCA sections 8(b)(10)(B) and (C). As much as possible, the Agency would design all requirements to be answered only where a reporter engages in the specific activity from the inclusive list of options. In fact, EPA believes that it is unlikely that the typical reporter would be engaged in and, as a result, be required to answer all, or even many, of the proposed reporting requirements. Nonetheless, to the extent that the proposed reporting process can be streamlined, the Agency welcomes comment on the proposed general, specific, and contextual reporting requirements. In addition, the Agency requests comment on whether such reporting requirements should be added or eliminated.

F. Frequency of Inventory Publication

TSCA section 8(b)(10)(B) sets the date for publication of initial and subsequent, triennial iterations of the mercury inventory to commence on April 1, 2017 (15 U.S.C. 8(b)(10)(B)). Therefore, EPA expects to publish the first mercury inventory supported by the proposed reporting requirements by April 1, 2020 and every three years thereafter.

G. Frequency of Data Collection and Reporting Deadline

TSCA section 8(b)(10)(D) provides the authority to promulgate the rule being proposed here to assist in the preparation of the triennial inventory publication (15 U.S.C. 8(b)(10)(D)), but TSCA offers no guidance on the frequency of collection or reporting deadline. To attempt to minimize reporting obligations, the Agency compared the respective collection frequencies and reporting deadlines for IMERC, the CDR rule, and the TRI program to when EPA is required to publish the mercury inventory. TSCA section 8(b)(10)(B), (15 U.S.C. 8(b)(10)(B)), sets a publication date for the mercury inventory that falls on the reporting deadline for IMERC: April 1 in a triennial cycle starting in April 2017. Data collected under the CDR rule is submitted to the Agency on a quadrennial cycle; the next reporting cycle will occur in 2020, with a reporting deadline of September 2020. The TRI program collects and publishes data on an annual cycle with a reporting deadline of July 1 of each year.

EPA recognizes that the mercury inventory reporting deadline would need to allow for an appropriate amount of time for quality control and assurance to be performed by EPA staff before the inventory is published. As such, the Agency concluded that the proposed reporting deadline would need to occur at least several months in advance of the publication deadline (April 1). The Agency then considered whether it was feasible to select a date and reporting frequency that would coincide with the IMERC, CDR rule, and TRI program reporting deadlines, so as not to impose an additional date for those that might be required to report to multiple systems. Due to the incongruities of frequency of collection among the proposed rule (triennial cycle—publication date of April 1), IMERC (triennial cycle—reporting deadline of April 1), the CDR rule (quadrennial cycle—reporting deadline of September 30), and TRI program (annual cycle—reporting deadline of July 1), the Agency determined that attempting to coordinate with each program would be more confusing for reporters, would not allow for ample time to review and coordinate similar data (*e.g.,* mismatched dates for reporting deadline and inventory publication between CDR rule and the proposed rule), and could result in gaps of up to several years between the availability of most applicable information (*e.g.,* principal reporting year data for the CDR rule).

Based on such considerations, the Agency determined that coinciding with the triennial IMERC frequency of collection is appropriate given the mercury inventory publication schedule is also triennial. In addition, the Agency is proposing to set the mercury inventory reporting deadline to coincide with the TRI program deadline in an effort to align with a date with which certain, potential reporters might already be familiar. Therefore, EPA proposes to establish a July 1st reporting deadline for 2019 and every three years thereafter. Data submitted should cover only the calendar year preceding the year in which the reporting deadline occurs (*e.g.,* data for calendar year January 1 to December 31, 2018 reported on or before July 1, 2019). The Agency notes that IMERC ''Product Notification'' requirements are intended to inform consumers, recyclers, policy makers, and others about the total amount of mercury in the specific products that were sold in the United States in a given year. EPA seeks comment on the proposed timelines and reporting deadlines proposed.

EPA notes that there would be some discrepancies between the proposed rule and IMERC deadlines (*e.g.,* the Agency's inventory publishing deadline is the same day as IMERC reporting deadline). However, the Agency would look to statutory provisions calling for coordination with IMERC to reconcile such concerns. In addition, the Agency's intent to avoid duplicative reporting of quantitative data could result in reliance

on information reported to other data collection systems in differing reporting years (*i.e.,* current reporters to IMERC and the CDR rule). For the reasons described above, EPA believes the proposed reporting parameters would provide for the most convenience and least burden to potential reporters and the Agency. Nonetheless, EPA requests comment on the proposed frequency of data collection, reporting deadline, and timeline.

H. Recordkeeping

Consistent with the proposed triennial reporting and publication cycle for the mercury inventory, EPA proposes that each person who is subject to the reporting requirements must retain records that document any information reported to EPA. Records relevant to reporting during a submission period must be retained for a period of 3 years beginning on the last day of the submission period. Submitters are encouraged to retain their records longer than 3 years to ensure that past records are available as a reference when new submissions are being generated.

I. Reporting Requirements and Confidential Business Information

Reporters to the information collection of the proposed rule may claim that their submitted information is CBI. The statutory provisions for CBI under TSCA are at Section 14 of the law (15 U.S.C. 2613).

J. Electronic Reporting

EPA is proposing to require electronic reporting of the mercury inventory data, using an Agency-provided, web-based reporting software to submit mercury inventory reports through the Internet to EPA's Central Data Exchange (CDX). CDX provides the capability for submitters to access their data through the use of web services. For more information about CDX, go to *http://epa.gov/cdx.*

Should EPA adopt a mandatory electronic reporting requirement, submitters would be required to register with EPA's CDX, complete an electronic signature agreement, and to prepare a data file for submission. To submit electronically to EPA via CDX, individuals must first register with that system at *http://cdx.epa.gov/epa_home.asp.* To register in CDX, the CDX registrant agrees to the Terms and Conditions, provides information about the submitter and organization, selects a user name and password, and follows the procedures outlined in the guidance document for CDX available at *https://cdx.epa.gov/TSCA/eTSCA-Registration Guide.pdf.* The registrant would also select a role and complete an electronic signature agreement either through electronic validation using the LexisNexis services or through wet ink signature. Once registration and the electronic signature agreement are complete, the user would prepare a submission. EPA is proposing mandatory electronic reporting because such a requirement would streamline the reporting process and reduce the administrative costs associated with information submission and recordkeeping. The effort to eliminate paper-based submissions in favor of CDX reporting is part of broader government efforts to move to modern, electronic methods of information gathering. Electronic reporting allows for more efficient data transmittal and a reduction in errors with the built-in validation procedures. EPA determined the adoption of electronic reporting reduces the reporting burden for submitters by reducing the cost and time required to review. Nonetheless, the Agency requests comment on its proposal to require mandatory electronic reporting.

IV. Request for Comment

In addition to the areas where EPA has specifically requested comment, EPA requests comment on all other aspects of this proposed rule.

V. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

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2. UNEP. Minamata Convention on Mercury. (No date). Available at *http://www.mercuryconvention.org.* [Accessed August 4, 2017].
3. EPA. Economic Analysis for the Proposed Reporting Requirements for the TSCA Mercury Inventory. August 2, 2017.
4. EPA. TSCA Chemical Substance Inventory. (No date). Available at *https://www.epa.gov/tsca-inventory.* [Accessed August 4, 2017].
5. AMAP/UNEP. Technical Background Report for the Global Mercury Assessment 2013. 2013. Arctic Monitoring and Assessment Programme, Oslo, Norway/UNEP Chemicals Branch, Geneva, Switzerland. vi + 263 pp. Available at *http://apps.unep.org/piwik/download.php?file=/publications/pmtdocuments/-Technical%20background%20report%20for%20the%20global%20mercury%20assessment%20-2013TechBackRepGMA2013.pdf.*
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7. EPA. Health Effects of Exposures to Mercury. (No date). Available at *https://www.epa.gov/mercury/health-effects-exposures-mercury.* [Accessed August 4, 2017].
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10. EPA. Chemical Data Reporting under the Toxic Substances Control Act. (No date). Available at *https://www.epa.gov/chemical-data-reporting.* [Accessed August 4, 2017].
11. EPA. Toxics Release Inventory (TRI) Program. (No date). Available at *https://www.epa.gov/toxics-release-inventory-tri-program.* [Accessed August 4, 2017].
12. EPA. TSCA Chemical Data Reporting Fact Sheet: Articles. 2012. Available at *https://www.epa.gov/sites/production/files/documents/articlesfactsheetforcdr_reporting_080312.pdf.*
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14. NEWMOA. Instructions—Mercury-added Product Notification Form, Version for Use by a Single Manufacturer, Distributor/Wholesaler, or Importer. August 2011. Available at *www.newmoa.org/prevention/mercury/imerc/InstructionsMultiple.doc.*
15. NEWMOA. Mercury-Added Products Database. (No date). Available at *http://www.newmoa.org/prevention/mercury/imerc/notification/.* [Accessed August 4, 2017].
16. U.S. Food and Drug Administration. Mercury Poisoning Linked to Skin Products. (July 26, 2016). Available at *https://www.fda.gov/forconsumers/consumerupdates/ucm294849.htm.* [Accessed October 3, 2017].
17. EPA. Collection of Information for Mercury Inventory Reporting Rule; EPA ICR No. 2567.01; OMB Control No.: 2070–NEW. [Month DD], 2017.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is expected to be subject to the requirements for regulatory actions specified in Executive Order 13771 (82 FR 9339, February 3, 2017). EPA prepared an analysis of the estimated costs and benefits associated with this action. This analysis, ''Economic Analysis for the Proposed Reporting Requirements for the TSCA Mercury Inventory'' (Economic Analysis, Ref. 3) is available in the docket and is summarized in Unit I.E.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 2567.01 (Ref. 17). You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The reporting requirements identified in the proposed rule would provide EPA with information necessary to prepare and periodically update an inventory of mercury supply, use, and trade in the United States, as required by TSCA section 8(b)(10)(D). These proposed reporting requirements would help the Agency to prepare subsequent, triennial publications of the inventory, as well as to carry out the requirement of TSCA section 8(b)(10)(C) to identify any manufacturing processes or products that intentionally add mercury and recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use. EPA intends to use information collected under the rule to assist in efforts to reduce the use of mercury in products and processes and to facilitate reporting on implementation of the Minamata Convention by the United States. Respondents may claim some of the information reported to EPA under the proposed rule as CBI under TSCA section 14. TSCA section 14(c) requires a supporting statement and certification for confidentiality claims asserted after June 22, 2016.

EPA estimated total burden and costs to industry associated with the proposed rule over the first three years of its promulgation (Ref. 3). For the 750 companies anticipated to be subject to the proposed reporting requirements, the average per respondent burden hours for Year 1 (of a triennial cycle for submitting information) was estimated to be 98.94 hours (Ref. 3). Years 2 and 3 are not data collection years, so there is no cost associated with the proposed rule during these years (Ref. 3). Therefore, the average for total burden hours per the three-year reporting cycle is 32.94 hours per year (Ref. 3).

Respondents/affected entities: Manufacturers, importers, and processors of mercury.

Respondent's obligation to respond: Mandatory (15 U.S.C. 2607(b)(10)(D)).

Estimated number of respondents: 750.

Frequency of response: Triennially.

Total estimated annual burden: 24,734 hours (averaged over 3 years). Burden is defined at 5 CFR 1320.3(b).

Total estimated annual cost: $1,985,446 (averaged over 3 years), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than November 27, 2017. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action include those that manufactures, including imports, mercury or mercury-added products (manufacturers), or otherwise intentionally uses mercury in a manufacturing process (processors). To identify the number of firms that are subject to the rule and considered small under SBA size standards, EPA compared the appropriate SBA size definition to the company's revenue or number of employees, as identified using Dun and Bradstreet or other market research Web sites. Of the 506 parent companies that are subject to the rule, 211 companies (42 percent) meet the SBA small business definitions for their respective NAICS classifications.

The small entity analysis estimated that 1 parent company (0.46 percent of total entities) would incur an impact of 3 percent or greater, and 3 parent companies (1.39 percent of total entities) would incur an impact of 1 to 3 percent. Details of this analysis are included in the accompanying Economic Analysis for this Rule (Ref. 3).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531 through 1538, and does not significantly or uniquely affect small governments. As such, the requirements of sections 202, 203, 204, or 205 of UMRA do not apply to this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It will not have any effect on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in the Order. Thus, EO 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk, nor is this action economically significant as the impact of this action will be less than $100 million.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not expected to affect energy supply, distribution, or use.

J. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, section 12(d) of NTTAA, 15 U.S.C. 272 note, does not apply to this section.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This action establishes an information requirement and does not affect the level of protection provided to human health or the environment.

List of Subjects in 40 CFR Part 713

Environmental protection, Mercury, Elemental mercury, Mercury compounds, Inventory, Supply, Use, Trade, Manufacture, Import, Export.

Dated: October 19, 2017.

E. Scott Pruitt,

Administrator.

Therefore, it is proposed that 40 CFR chapter I, subchapter R, be amended by adding a new part 713 to read as follows:

PART 713—REPORTING REQUIREMENTS FOR THE TSCA INVENTORY OF MERCURY SUPPLY, USE, AND TRADE

Sec.

713.1 Purpose, scope, and compliance.
713.5 Mercury for which information must be reported.
713.7 Mercury for which reporting is not required.
713.9 General requirements for which information must be reported.
713.11 Specific requirements for which information must be reported.
713.13 Contextual requirements for which information must be reported.
713.15 Persons who must report.
713.17 Persons not subject to this part.
713.19 Reporting information to EPA.
713.21 When to report.
713.23 Recordkeeping requirements.
713.25 Electronic filing.

Authority: 15 U.S.C. 2607(b)(10)(D).

§ 713.1 Purpose, scope, and compliance.

(a) This part specifies reporting and recordkeeping procedures under section 8(b)(10) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(b)(10)) for certain manufacturers (including importers) and processers of mercury as defined in section 8(b)(10)(A) to include elemental mercury and mercury compounds. Section 8(b)(10)(D) of TSCA authorizes the EPA Administrator to require reporting from any person who manufactures mercury or mercury-added products or otherwise intentionally uses mercury in a manufacturing process to carry out and publish in the **Federal Register** an inventory of mercury supply, use, and trade in the United States. In administering this mercury inventory, EPA will identify any manufacturing processes or products that intentionally add mercury and recommend actions, including proposed revisions of Federal law or regulations, to achieve further reductions in mercury use. EPA intends to use the collected information to implement TSCA and shape the Agency's efforts to recommend actions, both voluntary and regulatory, to reduce the use of mercury in commerce. In so doing, the Agency will conduct timely evaluation and refinement of these reporting requirements so that they are efficient and non-duplicative for reporters.

(b) This part applies to the activities associated with the periodic publication of information on mercury supply, use, and trade in the United States.

(c) For purposes of this part, the reporting for mercury supply, use, and trade includes the following activities:

(1) Import of mercury or a mercury-added product with the purpose of obtaining an immediate or eventual commercial advantage for the importer, except:

(A) Mercury generated as a byproduct not used for commercial purposes or an impurity; or

(B) A product that contains a component that is a mercury-added product.

(2) Manufacture (other than import) of mercury or a mercury-added product with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, except a product that contains a component that is a mercury-added product.

(3) Intentional use of mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product, with the purpose of obtaining an immediate or eventual commercial advantage for the processor, except mercury generated as a byproduct not used for commercial purposes.

(4) Distribution in commerce, including domestic sale or transfer, of mercury or a mercury-added product.

(5) Storage of mercury after manufacture (including import).

(6) Export of mercury or a mercury-added product, including the determining and controlling the sending of mercury (unless specifically prohibited) or a mercury-added product to a destination out of the customs territory of the United States.

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

(e) Each person who reports under this part must certify the accuracy of its information and maintain records that document information reported under this part and, in accordance with TSCA, permit access to, and the copying of, such records by EPA officials.

§ 713.5 Mercury for which information must be reported.

(a) Elemental mercury (Chemical Abstracts Registry Number 7439–97–6); or

(b) A mercury compound, including but not limited to the mercury

compounds listed in Table 1 of this part by Chemical Abstracts Registry Number:

TABLE 1—MERCURY COMPOUNDS

Chemical abstracts registry No.	Mercury compound
10045–94–0	Nitric acid, mercury(2+) salt (2:1).
100–57–2	Mercury, hydroxyphenyl-.
10112–91–1	Mercury chloride (Hg2Cl2).
10124–48–8	Mercury amide chloride (Hg(NH2)Cl).
103–27–5	Mercury, phenyl(propanoato-.kappa.O)-.
10415–75–5	Nitric acid, mercury(1+) salt (1:1).
104–60–9	Mercury, (9-octadecenoato-.kappa.O)phenyl-.
1191–80–6	9-Octadecenoic acid (9Z)-, mercury(2+) salt (2:1).
12068–90–5	Mercury telluride (HgTe).
13170–76–8	Hexanoic acid, 2-ethyl-, mercury(2+) salt (2:1).
13302–00–6	Mercury, (2-ethylhexanoato-.kappa.O)phenyl-.
1335–31–5	Mercury cyanide oxide (Hg2(CN)2O).
1344–48–5	Mercury sulfide (HgS).
1345–09–1	Cadmium mercury sulfide.
13876–85–2	Mercurate(2-), tetraiodo-, copper(1+) (1:2), (T–4)-.
138–85–2	Mercurate(1-), (4-carboxylatophenyl)hydroxy-, sodium (1:1).
141–51–5	Mercury, iodo(iodomethyl)-.
14783–59–6	Mercury, bis[(2-phenyldiazenecarbothioic acid-.kappa.S) 2-phenylhydrazidato-.kappa.N2]-, (T–4)-.
15385–58–7	Mercury, dibromodi-, (Hg-Hg).
15785–93–0	Mercury, chloro[4-[(2,4-dinitrophenyl)amino]phenyl]-.
15829–53–5	Mercury oxide (Hg2O).
1600–27–7	Acetic acid, mercury(2+) salt (2:1).
1785–43–9	Mercury, chloro(ethanethiolato)-.
19447–62–2	Mercury, (acetato-.kappa.O)[4-[2-[4-(dimethylamino)phenyl]diazenyl]phenyl]-.
20582–71–2	Mercurate(2-), tetrachloro-, potassium (1:2), (T–4)-.
20601–83–6	Mercury selenide (HgSe).
21908–53–2	Mercury oxide (HgO).
22450–90–4	Mercury(1+), amminephenyl-, acetate (1:1).
24579–90–6	Mercury, chloro(2-hydroxy-5-nitrophenyl)-.
24806–32–4	Mercury, [.mu.-[2-dodecylbutanedioato(2-)-.kappa.O1:.kappa.O4]]diphenyldi-.
26545–49–3	Mercury, (neodecanoato-.kappa.O)phenyl-.
27685–51–4	Cobaltate(2-), tetrakis(thiocyanato-.kappa.N)-, mercury(2+) (1:1), (T–4)-.
29870–72–2	Cadmium mercury telluride ((Cd,Hg)Te).
3294–57–3	Mercury, phenyl(trichloromethyl)-.
33770–60–4	Mercury, [3,6-dichloro-4,5-di(hydroxy-.kappa.O)-3,5-cyclohexadiene-1,2-dionato(2-)]-.
3570–80–7	Mercury, bis(acetato-.kappa.O)[.mu.-(3′,6′-dihydroxy-3-oxospiro[isobenzofuran-1(3H),9′-[9H]xanthene]-2′,7′-diyl)]di-.
537–64–4	Mercury, bis(4-methylphenyl)-.
539–43–5	Mercury, chloro(4-methylphenyl)-.
54–64–8	Mercurate(1-), ethyl[2-(mercapto-.kappa.S)benzoato(2-)-.kappa.O]-, sodium (1:1).
55–68–5	Mercury, (nitrato-.kappa.O)phenyl-.
56724–82–4	Mercury, phenyl[(2-phenyldiazenecarbothioic acid-.kappa.S) 2-phenylhydrazidato-.kappa.N2]-.
587–85–9	Mercury, diphenyl-.
592–04–1	Mercury cyanide (Hg(CN)2).
592–85–8	Thiocyanic acid, mercury(2+) salt (2:1).
593–74–8	Mercury, dimethyl-.
59–85–8	Mercurate(1-), (4-carboxylatophenyl)chloro-, hydrogen.
623–07–4	Mercury, chloro(4-hydroxyphenyl)-.
62–38–4	Mercury, (acetato-.kappa.O)phenyl-.
62638–02–2	Cyclohexanebutanoic acid, mercury(2+) salt (2:1).
627–44–1	Mercury, diethyl-.
6283–24–5	Mercury, (acetato-.kappa.O)(4-aminophenyl)-.
628–86–4	Mercury, bis(fulminato-.kappa.C)-.
629–35–6	Mercury, dibutyl-.
63325–16–6	Mercurate(2-), tetraiodo-, (T–4)-, hydrogen, compd. with 5-iodo-2-pyridinamine (1:2:2).
63468–53–1	Mercury, (acetato-.kappa.O)(2-hydroxy-5-nitrophenyl)-.
63549–47–3	Mercury, bis(acetato-.kappa.O)(benzenamine)-.
68201–97–8	Mercury, (acetato-.kappa.O)diamminephenyl-, (T–4)-.
72379–35–2	Mercurate(1-), triiodo-, hydrogen, compd. with 3-methyl-2(3H)-benzothiazolimine (1:1:1).
7439–97–6	Mercury.
7487–94–7	Mercury chloride (HgCl2).
7546–30–7	Mercury chloride (HgCl).
7616–83–3	Perchloric acid, mercury(2+) salt (2:1).
7774–29–0	Mercury iodide (HgI2).
7783–33–7	Mercurate(2-), tetraiodo-, potassium (1:2), (T–4)-.
7783–35–9	Sulfuric acid, mercury(2+) salt (1:1).
7783–39–3	Mercury fluoride (HgF2).
7789–47–1	Mercury bromide (HgBr2).

TABLE 1—MERCURY COMPOUNDS—Continued

Chemical abstracts registry No.	Mercury compound
90–03–9	Mercury, chloro(2-hydroxyphenyl)-.
94070–93–6	Mercury, [.mu.-[(oxydi-2,1-ethanediyl 1,2-benzenedicarboxylato-.kappa.O2)(2-)]]diphenyldi-.

§ 713.7 Mercury for which reporting is not required.

(a) Mercury that is generated as a byproduct not used for commercial purposes; or

(b) Mercury-containing waste.

§ 713.9 General requirements for which information must be reported.

(a) Persons who manufacture (including import) mercury in amounts greater than or equal to 2,500 pounds (lbs.) for elemental mercury or greater than or equal to 25,000 lbs. for mercury compounds for a specific reporting year shall report, as applicable:

(1) Amount of mercury stored (lbs.); or

(2) Amount of mercury distributed in commerce (lbs.)

(b) All other persons who manufacture (including import) mercury shall report, as applicable:

(1) Amount of mercury manufactured (other than imported) (lbs.);

(2) Amount of mercury imported (lbs.);

(3) Amount of mercury exported (lbs.), except mercury prohibited from export at 15 U.S.C. 2611(c)(1) and (7);

(4) Amount of mercury stored (lbs.); or

(5) Amount of mercury distributed in commerce (lbs.).

(c) Persons who sell mercury-added products, except a product that contains a component that is a mercury-added product, in IMERC Notification states shall report, as applicable:

(1) Amount of mercury in manufactured (other than imported) products (lbs.);

(2) Amount of mercury in imported products (lbs.); or

(3) Amount of mercury in exported products (lbs.).

(d) All other persons who manufacture (including import) mercury-added products, except a product that contains a component that is a mercury-added product, shall report, as applicable:

(1) Amount of mercury in manufactured (other than imported) products (lbs.);

(2) Amount of mercury in imported products (lbs.);

(3) Amount of mercury in exported products (lbs.);

(4) Amount of mercury in products distributed in commerce (lbs.); or

(e) Persons who otherwise intentionally use mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product, shall report, as applicable:

(1) Amount of mercury otherwise intentionally used (lbs.) in a manufacturing process;

(2) Amount of mercury stored (lbs.);

(3) Amount of mercury in exported final product(s) (lbs.); or

(4) Amount of mercury in final product(s) distributed in commerce (lbs.).

§ 713.11 Specific requirements for which information must be reported.

(a) Any person who manufactures (including imports) mercury shall specify, as applicable, the specific mercury compound(s) from a pre-selected list (as listed in Table 1 of this part).

(b) Any person who manufactures (including imports) a mercury-added product, except manufacture (including import) of a product that contains a component that is a mercury-added product, shall specify as applicable, the specific category(ies) and subcategory(ies) from a pre-selected list, as listed in Table 2 of this part:

TABLE 2—CATEGORIES AND SUBCATEGORIES OF MERCURY-ADDED PRODUCTS

Category	Subcategory
Batteries	—Button cell, silver.
	—Button cell, zinc-air.
	—Button cell, alkaline.
	—Stacked button cell batteries.
	—Manganese oxide.
	—Silver oxide.
	—Mercuric oxide, non-button cell.
	—Button cell, mercuric oxide.
	—Button cell, zinc carbon.
	—Other (specify).
Dental amalgam	[No subcategories].
Formulated products (includes uses in cosmetics, pesticides, and laboratory chemicals).	—Skin-lightening creams.
	—Lotions.
	—Soaps and sanitizers.
	—Bath oils and salts.
	—Topical antiseptics.
	—Preservatives (e.g., for use in vaccines and eye-area cosmetics when no preservative alternatives are available).
	—Pharmaceuticals (including prescription and over-the-counter drug products).
	—Cleaning products (not registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act).
	—Pesticides.
	—Paints.
	—Dyes.
	—Reagents (e.g., catalysts, buffers, fixatives).

TABLE 2—CATEGORIES AND SUBCATEGORIES OF MERCURY-ADDED PRODUCTS—Continued

Category	Subcategory
	—Other (specify).
Lighting, lamps, bulbs	—Linear fluorescent.
	—Compact fluorescent.
	—U-tube and circular fluorescent.
	—Cold cathode fluorescent.
	—External electrode fluorescent.
	—Mercury vapor.
	—Metal halide.
	—High pressure sodium.
	—Mercury short arc.
	—Neon.
	—Other (specify).
Measuring instruments	—Barometer.
	—Fever thermometer.
	—Flow meter.
	—Hydrometer.
	—Hygrometer/psychrometer.
	—Manometer.
	—Non-fever thermometer.
	—Pyrometer.
	—Sphygmomanometer.
	—Other (specify).
Pump seals	[No subcategories].
Switches, relays, sensors, valves	—Tilt switch.
	—Vibration switch.
	—Float switch.
	—Pressure switch.
	—Temperature switch.
	—Displacement relay.
	—Wetted reed relay.
	—Contact relay.
	—Flame sensor.
	—Thermostat.
	—Other (specify).
Miscellaneous/novelty mercury-added products	—Wheel weights.
	—Wheel rotation balancers/stabilizers.
	—Firearm recoil suppressors.
	—Carburetor synchronizers.
	—Joint support/shock absorption bands.
	—Other (specify).

(c) Any person who otherwise intentionally uses mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product, shall specify, as applicable:

(1) The specific manufacturing process for which mercury is otherwise intentionally added from a pre-selected list, as listed in Table 3 of this part:

TABLE 3—MANUFACTURING PROCESS FOR WHICH MERCURY IS OTHERWISE INTENTIONALLY ADDED

Chlorine production (e.g., mercury-cell chlor-alkali process).
Acetaldehyde production.
Vinyl chloride monomer production.
Sodium/potassium methylate/ethylate production.
Polyurethane/plastic production.
Other (specify).

(2) The specific use of mercury in a manufacturing process from a pre-selected list, as listed in Table 4 of this part:

TABLE 4—SPECIFIC USE OF MERCURY IN A MANUFACTURING PROCESS

Catalyst.
Reactant.
Reagent.
Other (specify).

§ 713.13 Contextual requirements for which information must be reported.

(a) Persons who manufacture (including import) mercury in amounts greater than or equal to 2,500 lbs. for elemental mercury or greater than or equal to 25,000 lbs. for mercury compounds for a specific reporting year shall report, as applicable:

(1) Country(ies) of origin for imported mercury;

(2) Country(ies) of destination for exported mercury;

(3) NAICS code(s) for mercury distributed in commerce.

(b) All other persons who manufacture (including import) mercury shall report, as applicable:

(1) Country(ies) of origin for imported mercury;

(2) Country(ies) of destination for exported mercury;

(3) NAICS code(s) for mercury distributed in commerce.

(c) Persons who sell mercury-added products, except a product that contains a component that is a mercury-added product, in IMERC Notification states shall report, as applicable:

(1) Country(ies) of origin for imported products;

(2) Country(ies) of destination for exported products; or

(3) NAICS code(s) for products distributed in commerce.

(d) All other persons who manufacture (including import) mercury-added products, except a product that contains a component that is a mercury-added product, shall report, as applicable:

(1) Country(ies) of origin for imported products;

(2) Country(ies) of destination for exported products; or

(3) NAICS code(s) for products distributed in commerce.

(e) Persons who otherwise intentionally use mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product, shall report, as applicable:

(1) Country(ies) of destination for exported final product(s); or

(2) NAICS code(s) for mercury in final product(s) distributed in commerce.

§ 713.15 Persons who must report.

(a) Any person who manufactures (including imports) mercury;

(b) Any person who manufactures (including imports) a mercury-added product, except a product that contains a component that is a mercury-added product; or

(c) Any person who otherwise intentionally uses mercury in a manufacturing process, other than the manufacture of a mercury compound or a mercury-added product.

§ 713.17 Persons not subject to this part.

(a) Any person engaged in the generation, handling, or management of mercury-containing waste, unless that person manufactures or recovers mercury in the management of that waste.

(b) Any person who engaged in trade (*e.g.,* brokering, selling wholesale, shipping, warehousing, repackaging, or retail sale), but does not first manufacture (including import) mercury or mercury-added products or otherwise intentionally use mercury in a manufacturing process.

§ 713.19 Reporting information to EPA.

Any person who must report under this part shall report for the submission period described at § 713.21:

(a) Quantities of mercury in pounds per applicable activity listed under the general requirements for which information must be reported described at § 713.9;

(b) Specific requirements for which information must be reported described at § 713.11;

(c) Contextual requirements for which information must be reported described at § 713.13; and

(d) According to the procedures described at § 713.25.

§ 713.21 When to report.

(a) Any person who must report under this part shall report for the reporting year described as follows. The 2020 reporting year is from January 1 to December 31, 2018. Subsequent recurring reporting years are from January 1 to December 31 at 3-year intervals, beginning in 2021.

(b) All information reported for an applicable reporting year must be submitted on or before the first day of July following the reporting year. The 2020 submission deadline is July 1, 2019. Subsequent recurring submission deadlines are from July 1, in 3-year intervals, beginning in 2022.

§ 713.23 Recordkeeping requirements.

Each person who is subject to the reporting requirements of this part must retain records that document any information reported to EPA. Records relevant to a reporting year must be retained for a period of 3 years beginning on the last day of the reporting year. Submitters are encouraged to retain their records longer than 3 years to ensure that past records are available as a reference when new submissions are being generated.

§ 713.25 Electronic filing.

(a) You must use [xxx name of application xxx] to complete and submit [xxx form? xxx]. Submissions may only be made as set forth in this section.

(b) Submissions must be sent electronically to EPA via CDX.

(c) Access [xxx name of application xxx] and instructions, as follows:

(1) By Web site. Go to the EPA [xxx name of application xxx] homepage at *http://www.epa.gov/[xxxURLxxx]* and follow the appropriate links.

(2) By phone or email. Contact the EPA TSCA Hotline at (202) 554–1404 or *TSCA-Hotline@epa.gov* for a CD–ROM containing the instructions.

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