

§ 801.7T Examples (temporary).

(a) The rules of § 801.3T are illustrated by the following examples:

Example 1. (i) Each year Division A's Examination and Collection functions develop detailed workplans that set goals for specific activities (e.g., number of audits or accounts closed) and for other quantity measures such as cases started, cycle time, overage cases, and direct examination time. These quantity measure goals are developed nationally and by Area Office based on budget allocations, available resources, historical experience, and planned improvements. These plans also include information on measures of quality, customer satisfaction, and employee satisfaction. Results are updated monthly to reflect how each organizational unit is progressing against its workplan, and this information is shared with all levels of management.

(ii) Although specific workplans are not developed at the Territory level, Headquarters management expects the Area Directors to use the information in the Area plans to guide the activity in their Territories. For 2005, Area Office 1's workplan has a goal to close 1,000 examinations of small business corporations and 120,000 taxpayer delinquent accounts (TDAs), and there are 10 Exam Territories and 12 Collection Territories in Area Office 1. While taking into account the mix and priority of workload, and available staffing and grade levels, the Examination Area Director communicates to the Territory Managers the expectation that, on average, each Territory should plan to close about 100 cases. The Collection Area Director similarly communicates to each Territory the expectation that, on average, they will close about 10,000 TDAs, subject to similar factors of workload mix and staffing.

(iii) Similar communications then occur at the next level of management between Territory Managers and their Group Managers, and between Group Managers and their employees. These communications will emphasize the overall goals of the organization and each employee's role in meeting those goals. The communications will include expectations regarding the average number of case closures that would have to occur to reach those goals, taking into account the fact that each employee's actual closures will vary based upon the facts and circumstances of specific cases.

(iv) Setting these quantity measure goals, and the communication of those goals, is permissible because case closures are a quantity measure. Case closures are an example of outcome-neutral production data that does not specify the outcome of any specific case such as the amount assessed or collected.

Example 2. In conducting a performance evaluation, a supervisor is permitted to take into consideration information the supervisor has developed showing that the employee failed to propose an appropriate adjustment to tax liability in one of the cases the employee examined, provided that information is derived from a review of the work done on the case. All information derived from such a review of individual cases handled by the employee, including

time expended, issues raised, and enforcement outcomes reached should be considered and discussed with the employee and used in evaluating the employee.

Example 3. When assigning a case, a supervisor is permitted to discuss with the employee the merits, issues, and development of techniques of the case based upon a review of the case file.

Example 4. A supervisor is not permitted to establish a goal for proposed adjustments in a future examination.

(b) [Reserved].

§ 801.8T Effective dates (temporary).

(a) The provisions of §§ 801.1T through 801.7T apply on or after October 17, 2005.

(b) The applicability of §§ 801.1T through 801.7T expires on or before October 14, 2008.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: October 3, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary (Tax Policy).

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261****Identification and Listing of Hazardous Waste****CFR Correction**

In Title 40 of the Code of Federal Regulations, Parts 260 to 265, revised as of July 1, 2005, in Appendix IX to Part 261, on pages 129 and 130, in the second column under "Address", transfer entries 2 and 3 to the third column under "Waste description".

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 710**

[OPPT-2003-0075; FRL-7715-2]

RIN-2070 AC61

TSCA Inventory Update Reporting Partially Exempted Chemicals List; Addition of 1,2,3-Propanetriol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Toxic Substances

Control Act (TSCA) section 8(a) Inventory Update Reporting (IUR) regulations by adding 1,2,3-propanetriol (CASRN 56-81-5) to the list of chemical substances in 40 CFR 710.46(b)(2)(iv) which are exempt from reporting processing and use information required by 40 CFR 710.52(c)(4). EPA has determined that the IUR processing and use information for this chemical is of low current interest. Manufacturers and importers of the chemicals listed in 40 CFR 710.46(b)(2)(iv) must continue to report manufacturing information.

DATES: This direct final rule is effective on December 16, 2005 without further notice, unless EPA receives adverse comment by November 16, 2005. If, however, EPA receives adverse comment, EPA will publish a **Federal Register** document to withdraw the direct final rule before the effective date.

ADDRESSES: Submit your comments, identified by docket identification (ID) number OPPT-2005-0001, by one of the following methods:

- *Federal eRulemaking portal:* <http://www.regulations.gov/>. Follow the on-line instructions for submitting comments.

- *Agency website:* <http://www.epa.gov/edocket/>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* oppt.ncic@epa.gov.
- *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:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID number OPPT-2003-0075. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

- *Instructions:* Direct your comments to docket ID number OPPT-2005-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and the regulations.gov websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102) (FRL-7181-7).

- **Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the OPPT Docket, EPA Docket Center, EPA West, Rm. B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744, and the telephone number for the OPPT Docket, which is located in the EPA Docket Center, is (202) 566-0280.

FOR FURTHER INFORMATION CONTACT: For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone

number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Susan Sharkey, Project Manager, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-8789; e-mail address: sharkey.susan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(7) to include import) chemical substances, including inorganic chemical substances, subject to reporting under the Inventory Update Rule (IUR) at 40 CFR part 710. Any use of the term "manufacture" in this document will encompass import, unless otherwise stated. In the past, persons that only were processors of chemical substances have not been required to comply with the requirements of 40 CFR part 710. These amendments do not change the status of processors under the regulations at 40 CFR part 710.

Potentially affected entities may include, but are not limited to: Chemical manufacturers and importers subject to IUR reporting, including chemical manufacturers and importers of inorganic chemical substances (NAICS codes 325, 32411).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 710.48. If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at

<http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 710 is available at E-CFR Beta Site Two at <http://www.gpoaccess5.gov/ecfr/>.

C. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit CBI to EPA through EDOCKET, regulations.gov, or e-mail. 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 submitting comments, remember to:

- i. Identify the rulemaking by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).
- ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- iii. Explain why you agree or disagree; suggest alternatives, and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What is the Agency's Authority for Taking this Action?

EPA is required under TSCA section 8(b), 15 U.S.C. 2607(b), to compile and keep current an inventory of chemical substances manufactured or processed in the United States. This inventory is

known as the TSCA Chemical Substances Inventory (the TSCA Inventory). In 1977, EPA promulgated a rule (42 FR 64572, December 23, 1977) under TSCA section 8(a), 15 U.S.C. 2607(a), to compile an inventory of chemical substances in commerce at that time. In 1986, EPA promulgated the initial IUR under TSCA section 8(a) at 40 CFR part 710 (51 FR 21438, June 12, 1986) to facilitate the periodic updating of the TSCA Inventory and to support activities associated with the implementation of TSCA. In 2003, EPA promulgated extensive amendments to the IUR (68 FR 848, January 7, 2003) (FRL-6767-4) (2003 Amendments) to collect manufacturing, processing, and use exposure-related information, and to make certain other changes. Minor corrections to the IUR were made in July of 2004 (69 FR 40787, July 7, 2004) (FRL-7332-3).

TSCA section 8(a)(1) authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances and mixtures (referred to hereinafter as chemical substances) must maintain such records and submit such information as the Administrator may reasonably require. TSCA section 8(a) generally excludes small manufacturers and processors of chemical substances from the reporting requirements established in TSCA section 8(a). However, EPA is authorized by TSCA section 8(a)(3) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order under TSCA section 5(e), or that is the subject of relief that has been granted pursuant to a civil action under TSCA section 5 or 7. The standard for determining whether an entity qualifies as a small manufacturer for purposes of 40 CFR part 710 generally is defined in 40 CFR 704.3. Processors are not currently subject to the regulations at 40 CFR part 710.

B. What is the Inventory Update Reporting (IUR) regulation?

The data reported under the IUR are used to update the information maintained on the TSCA Inventory. EPA uses the TSCA Inventory and data reported under the IUR to support many TSCA-related activities and to provide overall support for a number of EPA and other Federal health, safety, and environmental protection activities. The IUR, as amended by the 2003 Amendments, requires U.S. manufacturers (including importers) of

chemicals listed on the TSCA Inventory to report to EPA every 4 years the identity of chemical substances manufactured for a commercial purpose during the reporting year in quantities of 25,000 pounds or more at any single site they own or control. The IUR generally excludes several categories of substances from its reporting requirements, i.e., polymers, microorganisms, naturally occurring chemical substances, and certain natural gas substances. Sites are required to report information such as company name, site location and other identifying information, identity and production volume of the reportable chemical substance, manufacturing exposure-related information associated with each reportable chemical substance, including the physical form and maximum concentration of the chemical substance and the number of potentially exposed workers.

Manufacturers (including importers) of larger volume chemicals (i.e., 300,000 lbs. or more manufactured during the reporting year at any site) are additionally required to report certain processing and use information (40 CFR 710.52(c)(4)). This information includes process or use category, NAICS code, industrial function category, percent production volume associated with each process or use category, number of use sites, number of potentially exposed workers, and consumer/commercial information such as use category, use in or on products intended for use by children, and maximum concentration.

For the 2006 submission period, inorganic chemicals, regardless of production volume, are partially exempt (i.e., submitters do not report the processing and use information listed in 40 CFR 710.52(c)(4)). After the 2006 reporting period, the partial exemption for inorganic chemicals will no longer be applicable and submitters will report processing and use information on inorganic chemical substances manufactured (including imported at a site in volumes of 300,000 pounds or more, unless partially exempted as described in Unit II.C. In addition, specifically listed petroleum process streams and other specifically listed chemical substances are partially exempt, and manufacturers of such substances are not required to report processing and use information during the 2006 submission period as well as subsequent submission periods.

C. What is the "Low Current Interest" Partial Exemption and Petition Process?

The 2003 Amendments established a partial exemption in 40 CFR 710.46(b)(2) for certain chemicals for

which EPA has determined the IUR processing and use information to be of "low current interest." The current list of chemical substances which are subject to the low current interest exemption are identified at 40 CFR 710.46(b)(2)(iv). Persons who manufacture or import chemical substances listed in 40 CFR 710.46(b)(2)(iv) are not required to report the processing and use information specified in 40 CFR 710.52(c)(4), but are required to comply with all other reporting obligations. The public may petition EPA to add a substance to, or delete a substance from, the list of chemicals partially exempt from reporting under 40 CFR 710.46(b)(2).

In determining whether the partial exemption should apply to a particular chemical substance, EPA will consider the totality of information available for the chemical substance in question, including but not limited to information associated with one or more of the following considerations (see 40 CFR 710.46(b)(2)(ii)):

(A) Whether the chemical qualifies or has qualified in past IUR collections for the reporting of the information described in § 710.52(c)(4) (i.e., at least one site manufactures 300,000 pounds or more of the chemical).

(B) The chemical substance's chemical and physical properties or potential for persistence, bioaccumulation, health effects, or environmental effects (considered independently or together).

(C) The information needs of EPA, other federal agencies, tribes, states, and local governments, as well as members of the public.

(D) The availability of other complementary risk screening information.

(E) The availability of comparable processing and use information.

(F) Whether the potential risks of the chemical substance are adequately managed by EPA or another agency or authority.

It is important to note that the addition of a chemical substance under this partial exemption will not necessarily be based on the potential risks of the chemical, but on the Agency's current assessment of the need for collecting IUR processing and use information for that chemical, based upon the totality of information considered during the petition review process. Additionally, interest in a chemical or a chemical's processing and use information may increase in the future, at which time EPA will reconsider the applicability of this partial exemption for those chemicals.

A petition to amend the list of chemicals partially exempt from reporting under 40 CFR 710.46(b)(2) (whether by adding or removing a

chemical to or from the list) must be in writing, must identify the chemical in question, including a chemical identification number, and should provide sufficient information for EPA to determine whether collection of the information in 40 CFR 710.52(c)(4) for the chemical in question is of low interest. In an earlier **Federal Register** notice (70 FR 3658, January 26, 2005) (FRL-7332-2), EPA proposed to further amend the IUR regulations to clarify the petition requirements. In that notice, EPA explained that a petition must include a written rationale or justification to support the assertion that collecting processing and use information for the chemical substance is of low current interest. In addition, the proposal clarifies that the petition must be accompanied by relevant documents, and include specific citations to information in those documents. The proposed amendments also provide that the petitioner's rationale must include sufficient information upon which the Agency can assess the current need for IUR processing and use information and can make a decision concerning the reporting of that information for the subject chemical. Finally, the proposal clarifies that the burden of proof is on the petitioner to demonstrate why a given chemical substance should be considered of low current interest. The proposed rule has not yet been finalized.

D. What Action is the Agency Taking?

Through this action, EPA is amending the list of chemical substances that are partially exempt from reporting requirements under the IUR. EPA received three petitions requesting the addition of 1,2,3-propanetriol, CASRN 56-81-5, to the list of substances in 40 CFR 710.46(b)(2)(iv) (Refs. 1, 2, and 3). EPA considered the information provided in the three petitions and determined that there is at least one site manufacturing 300,000 pounds or more (see 40 CFR 710.46(b)(2)(ii)(A)); that there is sufficient current evidence of low hazard (see 40 CFR 710.46(b)(2)(ii)(B)); and that EPA believes that more information on 1,2,3-propanetriol (CASRN 56-81-5) would not further our understanding of this chemical at this time (see 40 CFR 710.46(b)(2)(ii)(C)). Therefore, the IUR processing and use information for 1,2,3-propanetriol (CASRN 56-81-5) is of low current interest (Ref. 4).

The petitions included sufficient information for EPA to identify a low current interest in the processing and use information associated with 1,2,3-propanetriol. One petition directed the

Agency to specific citations in documents supplied with the petition, enabling the Agency to identify and review information pertinent to the decision.

EPA received 22 reports for 1,2,3-propanetriol with production volumes of 300,000 lbs. or greater in the 2002 IUR submission period. Removing the requirement to report processing and use information for 22 reports results in a cost savings of \$119,483 to \$128,960 in the first reporting cycle and \$95,586 to \$103,168 in future reporting cycles (Ref. 5).

The Agency acknowledges that additional, unidentified information may exist. If you are in possession of information which is relevant to the Agency's decision to partially exempt 1,2,3-propanetriol, please provide comments following the procedure listed in **ADDRESSES**.

III. Direct Final Rule Procedures

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. This final rule will be effective on December 16, 2005 without further notice unless the Agency receives adverse comment by November 16, 2005. If EPA receives adverse comment on this rulemaking, the Agency will publish a timely withdrawal in the **Federal Register** and will publish a notice of proposed rulemaking in a future edition of the **Federal Register**. The Agency will address the comments as part of that proposed rulemaking.

IV. Materials in the Rulemaking Record

The public version of the official record for this rulemaking is contained in three separate dockets that can be accessed as described in the **ADDRESSES** unit. Docket ID number OPPT-2005-0001 contains the main rulemaking record. Additionally, certain supporting records are contained in docket ID numbers OPPT-2003-0059 and OPPT-2004-0071, as identified in the listing contained in this unit. This record includes the documents located in the docket as well as the documents that are referenced in those documents.

1. Letter from Barbara J. Slatt, The Proctor & Gamble Company, to OPPT Document Control Officer, EPA, April 3, 2003. Docket document numbers OPPT-2003-0059-0002 through OPPT-2003-0059-0004.

2. Letter from Linda C. Burgert, The Dow Chemical Company, to OPPT Document Control Officer, EPA, December 30, 2003. Docket document number OPPT-2003-0059-0005.

3. Letter from Herbert Estreicher, Esq., and Martha E. Marrapese, Esq., Keller and Heckman LLP, to OPPT Document Control Officer, EPA, December 30, 2003. Docket document number OPPT-2004-0071-0002.

4. USEPA, "Petition Review Report for CASRN 56-81-5," December 22, 2004.

5. USEPA, "Cost Savings Estimate of Adding 1,2,3-Propanetriol to the 40 CFR 710.46(b)(2) Chemical Substance List," OPPT, January 5, 2005.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This direct final rule implements one change to 40 CFR part 710, resulting in a burden and cost reduction. Since this direct final rule does not impose any new requirements, it is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act

This direct final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501et seq.

C. Regulatory Flexibility Act

Since this action makes one change to 40 CFR part 710, resulting in a burden reduction, EPA certifies this action will not have a significant economic impact on a substantial number of small entities. There will be no adverse impact on small entities resulting from this action.

D. Unfunded Mandates Reform Act

This action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

E. Executive Order 3132

The Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.