

PREPUBLICATION COPY NOTICE:

The Assistant Administrator for Chemical Safety and Pollution Prevention signed the following final rule on **June 11, 2012**.

This is a prepublication version of the final rule that EPA is submitting for publication in the *Federal Register*. While the Agency has taken steps to ensure the accuracy of this Internet version of the final rule, it is not the official version of the final rule for purposes of judicial review. Please refer to the official version of the final rule that will appear in a forthcoming *Federal Register* publication.

Once the official version of the final rule publishes in the *Federal Register*, this advance publication version of the final rule will be replaced with a link to the final rule that appears in the *Federal Register* publication. At that time, you will also be able to access the on-line docket for this rulemaking at <http://www.regulations.gov>. You can then use EPA's electronic docket and comment system at www.regulations.gov, to access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. The docket number for this rulemaking is **EPA-HQ-OPPT-2009-0187**.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA-HQ-OPPT-2009-0187; FRL-9353-1]

RIN 2070-AJ43

TSCA Inventory Update Reporting Modifications; Chemical Data Reporting; 2012 Submission Period Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations by extending the submission deadline for 2012 reports from June 30, 2012 to August 13, 2012. This is a one-time extension for the 2012 submission period only. The CDR regulations requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report current data on the manufacturing, processing, and use of the chemical substances.

DATES: This final rule is effective [*insert date of publication in the Federal Register*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number (No.) EPA-HQ-OPPT-2009-0187, is available either electronically through <http://www.regulations.gov> or in hard copy at the Pollution Prevention and Toxics (OPPT) Docket, Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 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 telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor

instructions and additional information about the docket available at

<http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Chenise Farquharson, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-7768; fax number: (202) 564-4775; email address: *farquharson.chenise@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. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including manufacture as a byproduct) or import chemical substances listed on the TSCA Inventory. Potentially affected entities may include, but are not limited to:

- Chemical manufacturers and importers (NAICS codes 325 and 324110, e.g., chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, e.g., utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

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. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. Background

A. What Action is the Agency Taking?

In the August 16, 2011, final rule entitled, “TSCA Inventory Update Reporting Modifications; Chemical Data Reporting” (76 FR 50816, August 16, 2011) (FRL-8872-9), EPA designated the 2012 CDR submission period to be February 1, 2012 to June 30, 2012. EPA is issuing this amendment to extend the deadline for 2012 CDR submission reports until August 13, 2012.

The Agency is taking this action in response to concerns raised by the regulated community about their ability to submit the required information within the prescribed period. Written requests to extend the CDR submission period are included in the docket (see **ADDRESSES**). The compelling concerns raised by industry include the timing of responses to inquiries about regulatory interpretations, particularly for byproduct chemical substances, and issues associated with several aspects of electronic reporting.

EPA believes it is appropriate to extend the reporting period to allow the reporters associated with byproducts to understand and determine their reporting obligations and to allow the regulated community to adjust to electronic reporting and submit their reports.

With respect to the timing of this action, the need for the Agency to extend the deadline arose, in part, as a result of issues experienced by the regulated community with

several aspects of electronic reporting that were brought to the Agency's attention only recently.

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

The CDR rule was issued pursuant to the authority of TSCA section 8(a), 15 U.S.C. 2607(a). Under section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), the Agency may issue a final rule without a prior proposal if it finds that notice and public participatory procedures are impracticable, unnecessary, or contrary to the public interest. In this case, for the extension sought, the Agency does find that normal notice and public process rulemaking is impracticable. Given that the current reporting deadline is June 30, 2012, it is impracticable to follow notice and comment procedures on an extension of that deadline, because that process would not allow the rule to be finalized before the current reporting deadline. As discussed in this unit, the Agency only recently learned that the regulated community was having difficulty submitting their reports through the required electronic reporting mechanism. This action does not alter the substantive CDR reporting requirements in any way. The Agency also believes the one-time extension will not result in a significant delay in the processing and availability of CDR information to potential users. Further, this action is consistent with the public interest because it is designed to facilitate compliance with the CDR rule and to ensure that the 2012 collection includes accurate data on chemical manufacturing, processing, and use in the United States. Finally, any impact on the regulated community is expected to be beneficial given that the one-time extension provides additional time to submit accurate CDR reports to EPA.

Similarly, under APA section 553(d), 5 U.S.C. 553(d), the Agency may make a rule immediately effective “for good cause found and published with the rule.” For the reasons discussed in this unit, EPA believes that there is “good cause” to make this amendment effective upon publication in the **Federal Register**.

III. Statutory and Executive Order Reviews

A. Executive Order 12866 and Executive Order 13563

This action is classified as a final rule because it makes an amendment to the Code of Federal Regulations (CFR). The amendment to the CFR is necessary to allow for a one-time extension to the 2012 CDR reporting period. This action does not impose any new requirements or amend substantive requirements. This action is not a “significant regulatory action” and is therefore 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) and Executive Order 13563 entitled “Improving Regulation and Regulatory Review” (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

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

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements under the APA because the Agency has invoked the APA “good cause” exemption.

D. Unfunded Mandates Reform Act and Executive Orders 13132 and 13175

This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal Government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal Government and States or Indian tribes. As a result, no action is required under Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). Nor does it impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act, 2 U.S.C. 1531-1538.

E. Executive Orders 13045, 13211, and 12898

This action is not a “significant regulatory action” as defined by Executive Order 12866. As a result, this action is not subject to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) and Executive Order 13211 entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). In addition, this action also does not require any special considerations under Executive Order 12898 entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

F. National Technology Transfer and Advancement Act

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act, 15 U.S.C. 272 note.

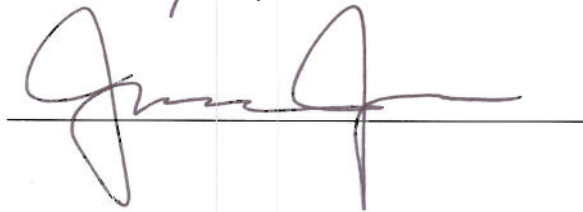
IV. Congressional Review Act

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.*, EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). Under CRA section 808, an agency may make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding under the APA that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement, 5 U.S.C. 808(2). As discussed in Unit II.B., EPA has made such a good cause finding for this rule and established the effective date that is identified under **DATES**.

List of Subjects in 40 CFR Part 711

Environmental protection, Chemicals, Confidential Business Information (CBI),
Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping
requirements.

Dated: 6/11/2012

A handwritten signature in dark ink, appearing to be 'James', written over a horizontal line.

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 711--[AMENDED]

1. The authority citation for part 711 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

2. In § 711.20, revise the second sentence to read as follows:

§ 711.20 When to report.

* * * The 2012 CDR submission period is from February 1, 2012 to August 13,
2012.* * *