

US EPA'S NEW CHEMICAL DATA REPORTING RULE

The clock is now running for companies who are required to report data under US EPA's new Chemical Data Reporting (CDR) rule. The new CDR rule makes a number of significant changes to the data reporting that was required under US EPA's old Inventory Update Reporting (IUR) rule, predecessor to the CDR rule.

The new rule applies to a wide array of chemical manufacturers and importers, as well as certain processors and users of chemical substances including:

- Organic and inorganic chemical manufacturers and importers;
- Petrochemical manufacturers, petroleum refineries;
- Paint and coatings manufacturers;
- Pigment and dye manufacturers;
- Alkalies and chlorine manufacturers;
- Ink manufacturers;
- Fertilizer manufacturers;
- Paper and cardboard manufacturers;
- Iron and steel mills;
- Nonferrous metals smelters;
- Foundries;
- Electronic component and semiconductor manufacturers;
- Printed circuit manufacturers;
- Utilities and electric power generators, and
- Many other users, manufacturers, importers and processors of chemical substances.

Under the new CDR rule, entities must report all data required by the rule between February 1, 2012 and June 30, 2012. US EPA has said that it will not postpone the reporting deadline. Entities subject to the new rule must submit all data required for the current reporting cycle to US EPA during this five-month window or face an enforcement action from US EPA.

Reporting Production Volume Information

- For the current 2012 reporting period, a manufacturer (including importer) of chemical substances must report production volume data (which includes the amount domestically manufactured plus imported volumes) for each chemical substance where **25,000 lbs. or more** of the chemical was manufactured or imported at any single site **during 2011**.
- During the 2012 reporting period, production volume must be reported for both 2010 **and** 2011.
- For future reporting periods subsequent to 2012, reporting will be required if the production volume of a chemical substance meets or exceeds 25,000 lbs. **in any single calendar year** since the last principal reporting year (e.g., since 2011).

- In future reporting periods (e.g., 2016), production volume must be reported for **each year** since the last principal reporting year (e.g., since 2011).

Reporting Processing and Use Information

- For the current 2012 reporting period, a manufacturer (or importer) must report processing and use information for any chemical substance it manufactured (including imported) in the amount of **100,000 lbs. or more** at a site during 2011. (This is a substantial decrease from the 300,000 lbs. threshold in the old IUR rule).
- Processing and use information now must be reported if it is “**known to or reasonably ascertainable by**” the reporting entity. This broader new requirement replaces the “readily obtainable” reporting standard used under the old IUR rule.
- For industrial processes and uses:
 - The information to be submitted includes:
 - The type of industrial processing or use operation(s) at each site that receives a reportable chemical substance;
 - The applicable industrial sector code for each processing and use operation;
 - The manner in which the chemical substance is used;
 - The estimated percentage of the total production volume of the chemical substance(s) associated with each combination of industrial processing and use operation;
 - Industrial sector and industrial function, the number of sites at which each reportable chemical substance is processed or used; and
 - An estimate of the number of workers reasonably likely to be exposed to the chemical substances.
- For consumer and commercial uses of chemical substances:
 - The rule requires that the data for consumer and commercial be separated, with the use being identified as **either** consumer or commercial.
 - Entities submitting data must determine, within each consumer and commercial product category, whether any amount of each reportable chemical substance manufactured (or imported) by the entity is present **in or on any consumer products intended for use by children age 14 or under**, regardless of the concentration of the chemical substance in or on the product.
 - Entities submitting data also must estimate the percentage of the submitter’s site’s total production volume of the reportable chemical substance associated with each consumer and commercial product category.
 - When a chemical substance is used in a commercial product, the rule requires that the number of commercial workers reasonably likely to be exposed to the subject chemical substance be reported.
- In subsequent submission periods after the 2012 reporting cycle, the reporting threshold for processing and use information will be lowered even further to **25,000 lbs.** (the same threshold as for reporting production volume information).

Other Technical Data That Must Be Reported

In addition to the basic production volume information, manufacturers (including importers) must report more detailed data than ever before on the chemical substances they manufacture or import, as well as report the data in different ways including:

- More detailed information on the name and address of the parent company.
- The name of a technical contact for the data being reported.
- The current Chemical Abstracts (CA) Index Name used to list the chemical substance on the Toxic Substances Control Act (TSCA) Inventory, as part of the chemical identity. (Note:

There are particular requirements for reporting chemical identity for chemicals listed on the confidential portion of US EPA's TSCA Inventory.)

- The volume of a manufactured (including imported) chemical substance **used at the reporting site**.
- Whether an imported chemical substance is **physically present** at the reporting site.
- The volume of each chemical **directly exported and not domestically processed or used**.

Reporting for Chemicals Subject to TSCA Rules or Orders

Specific chemical substances that are the subject of particular rules and/or orders under the TSCA also are subject to the new CDR rule reporting requirements if they are manufactured or imported in volumes of 25,000 lbs. or more at any single site. (This is the same reporting threshold as previously existed, but it will be lowered to 2,500 lbs. for the 2016 reporting period and subsequent reporting periods.)

Special Requirements for Reporting Byproducts

- The definition of "manufacture" in the CDR rule includes the "extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or complex combination of substances."
- Under the CDR rule, byproducts of the manufacture, processing, use or disposal of another chemical substance or mixture for a commercial purpose are considered both "manufactured" and "manufactured for a commercial purpose" are subject to reporting under the rule.
- Manufacturers (and importers) must report whether a chemical substance, such as a byproduct, is to be recycled, remanufactured, reprocessed or reused. Companies must indicate whether the chemical substance, which otherwise would be disposed of as a waste, is being removed from the waste stream and has a "commercial purpose."
- Information about whether a manufactured chemical substance, such as a byproduct, is to be recycled, remanufactured, reprocessed or reused must be reported in addition to any required information associated with any chemical substances manufactured from the byproduct.

New Requirements for Confidential Business Information Claims

- Upfront substantiation is now required when processing and use information is claimed as Confidential Business Information (CBI).
- US EPA will disallow confidentiality claims for processing and use data if the data is just identified as not "known to or reasonably ascertainable."

Industry Codes Changed

The new CDR rule changes the list of industrial function categories and replaces the NAICS codes with industrial sector categories. The rule also replaces the five-digit NAICS codes previously used with 48 Industrial Sector (IS) codes adapted from the European Union's "Guidance on Information Requirements and Chemical Safety Assessment."

Electronic Reporting Now Required

All data now must be reported to US EPA electronically, using US EPA's web-based reporting tool (e-CDRweb) to submit CDR reports through the Internet to US EPA's Central Data Exchange (CDX). **Paper submissions are no longer accepted.**



Shorter Time Until the Next Reporting Periods

The reporting frequency has been decreased from every five years to every four years.

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