

## TSCA CDR Reporting

EPA's TSCA Chemical Data Reporting Rule ("CDR Rule") requires manufacturers and importers to report information on chemical substances which they manufacture or import into the U.S. Under the CDR Rule, EPA collects basic exposure-related information on the types, quantities, and uses of chemical substances produced and/or imported into the US. This information helps EPA understand exposure to these chemicals and screen and prioritize chemicals to identify and evaluate potential human health and environmental effects. This information is collected every four years. The current window to submit CDR reports opened on June 1, 2020 and closes on **November 30, 2020**. Normally, these reports are due by September 30, 2020. EPA stated that extending the deadline by two months was appropriate for several reasons, including the delayed finalization of the 2020 CDR regulations.

## Who Must Submit the TSCA CDR?

For the 2020 CDR, the principal reporting year is calendar year 2019. Manufacturers (including importers) need to report full manufacturing, processing, and use information for 2019 only and production volume information for calendar years 2016, 2017, 2018, and 2019.

Chemical manufacturers and importers must comply with the requirements for the 2020 Chemical Data Reporting Rule. Any site that manufactured (or imported) for commercial purposes 25,000 lbs or more of any chemical substance on the TSCA Inventory during any single year (2016, 2017, 2018, and 2019) is subject to the reporting requirement. The report is site-specific, chemical-specific, and year-specific.

Persons subject to the CDR must submit "Form U" electronically via the e-CDRweb reporting tool in conjunction with the EPA's CDX. The required contents of the "Form U" include:

- Total annual production volume for 2016-2019
- Certain manufacturing information for 2019
- Processing and end use information for 2019
- Worker exposure information
- Maximum concentration and physical form(s) for each chemical substance

For certain years, only manufacturing/importing totals are required rather than detailed calculations.

## Import = Manufacture

As is standard under TSCA, "import" is considered to be "manufacture" for the purposes of the CDR. If a company is the importer of record introducing the substance into the Customs Territory of the U.S., in the EPA's eyes that company is the manufacturer of that chemical. The Customs Territory is defined as the 50 states, the District of Columbia, and Puerto Rico.

## 2020 CDR Rule Changes

The changes to the 2020 CDR regulations, relative to the 2016 version include:

- **Changing requirements for confidentiality claims.** CDR rules will now require up-front substantiation of confidentiality claims. The rule also now lists certain data elements that cannot be claimed as confidential (e.g., certain elements for how a chemical is processed and used).

- **Mandating the use of OECD functional use and product and article use codes.** Certain processing and use codes used in prior CDR reporting will now be replaced by corresponding OECD codes. EPA made this change in part to harmonize with non-U.S. reporting requirements.
- **Requiring reporting of North American Industry Classification System (NAICS) codes for sites of manufacture.** Manufacturers must now provide industry specific NAICS codes for each site for which they report a chemical. EPA stated that this will enable the agency to perform industry-specific analyses and increase the ability to combine CDR data with other sources (e.g., Toxics Release Inventory).
- **Modifying the requirement to report removal from the waste stream.** For the 2020 CDR period, EPA is requiring companies to indicate whether a chemical is removed from the waste stream and recycled. EPA indicated that the terms “remanufactured, reprocessed, reused,” could be interpreted and applied too broadly to obtain information of interest.
- **Allowing companies to voluntarily indicate whether a chemical is a byproduct.** EPA's original proposal for the 2020 CDR rules would have made such indication mandatory, but in response to comments, EPA decided to make it voluntary.
- **Requiring secondary submitters of joint submissions to report chemical function and percentage in imported products.** Due to business confidentiality, importers of mixtures sometimes are not aware of the specific chemical identity or concentration of the mixtures they import. In such cases, importers may designate a secondary submitter to provide the necessary information to EPA on a confidential basis. Beginning in the 2020 CDR reporting cycle, secondary submitters will be required to substantiate confidentiality claims for information on the function of the chemical as well as its concentration within the mixture.
- **Modifying the identification of parent companies.** For the 2020 CDR reporting cycle, EPA is establishing a convention for submitters to identify parent companies. The CDR rules will add the requirement to report a foreign parent company and add a new definition for “highest-level parent company.”
- **Provide two reporting options for co-manufacturers.**
  - Under the first option, the contracting company (primary submitter) would initiate a co-manufacturer report using EPA's e-CDRweb reporting tool that would prompt the reporting requirements for the producing company (secondary submitter).
  - Under the second option, the contracting and producing company would work together to complete the reporting. The producing company (instead of the contracting company) would initiate and complete the reporting in e-CDRweb, coordinating with the contracting company to obtain all information needed to complete the submission.
- **Adding certain reporting exemptions relating to byproducts.** The 2020 CDR rule incorporates exemptions: (1) for specifically identified byproducts that are recycled in a site-limited, enclosed system; and (2) for byproducts that are manufactured as part of non-integral pollution control and boiler equipment.

Instructions for the 2020 CDR reporting are available [here](#).

## Exclusions to TSCA Form U or CDR Reporting

There are numerous exclusions from CDR requirements, including:

- Anything specifically excluded from being a chemical substance under TSCA by the statutory definition (which includes pesticides, nuclear material, tobacco products, food, drugs, and cosmetics registered under other regulatory programs)
- Small quantities manufactured for research and development
- Substances imported as part of an article
- Byproducts with no commercial chemical purpose
- Non-isolated intermediates
- Certain polymers
- Microorganisms
- Naturally occurring chemical substances

Certain petroleum process streams and inorganic chemical substances are partially excluded from CDR requirements. Small manufacturers are also excluded from the CDR unless subject to certain TSCA rules.

**Chemservice Americas would be happy to support you with the TSCA CDR Reporting.**

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