

assert,” and “reportable” was substituted for “specific” (§ 710.38(c)(b) and (c)); in § 710.58(b)(1) “submitter” was substituted for “person” (§ 710.38(c)(1)); in § 710.58(b)(1)(i) “subpart” was substituted for “part” (§ 710.58(c)(1)(i)); in § 710.58(b)(1)(vi) substituted “have been taken” for “have you taken” and “the” for “this” (§ 710.38(c)(1)(vi)); in § 710.58(c)(2) “listed in paragraph (c)(1) of this section” was added for clarification purposes, “submitter” was substituted for “person” and “clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as ‘confidential business information,’ ‘proprietary,’ or ‘trade secret.’” was substituted for “mark that information as ‘trade secret,’ ‘confidential,’ or other appropriate designation.” (§ 710.38(c)(2)); and in § 710.58(d) “is indicated on the reporting form” was substituted for “accompanies information at the time it is” and “confidentiality claim substantiation” was substituted for “substantiation” (§ 710.38(d)).

EPA replaced “manufactured or imported” with “manufactured (including imported)” to provide consistency and clarification. EPA made this change in: § 710.52(c)(3)(iv) (§ 710.32(c)(7)); § 710.58(c)(1)(v) (§ 710.38(c)(1)(v)); § 710.58(c)(1)(vi) (§ 710.38(c)(1)(vi)); § 710.58(c)(1)(vii) (§ 710.38(c)(1)(vii)); § 710.58(c)(1)(viii) (§ 710.38(c)(1)(viii)); § 710.58(c)(1)(x) (§ 710.38(c)(1)(x)); and § 710.48 (§ 710.28).

EPA moved three definitions that currently appear in § 710.2 to § 710.23, to clarify that they apply to the existing IUR. In § 710.3(d), three changes were made in recognition that the definitions are no longer separated into sections, but are contained within paragraph (d): in the § 710.3(d) definition for “Commerce,” “paragraph (1) of this definition” was substituted for “paragraph (1) of this section” (§ 710.2(i)), and in the § 710.3(d) definition for “Technically qualified individual,” “this paragraph” was substituted for “paragraph (aa)(3) of this section” and “paragraph (1) of this definition” was substituted for “paragraph (aa)(1) of this section” (§ 710.2(aa)(3)).

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may promulgate a rule without providing notice and an opportunity for public comment. EPA

has determined that there is good cause for making these minor regulatory changes in this final rule without prior notice and opportunity for comment because these minor corrections are non-substantive and do not affect the meaning or legal effect of the provisions affected, which remains the same as it was when the provision appeared in 40 CFR part 710. Thus, notice and public procedure are unnecessary for these minor changes to the existing or new provisions in 40 CFR part 710. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### *B. 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 in commerce. 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 at 40 CFR part 710 (51 FR 21447, June 12, 1986), also under TSCA section 8(a), to facilitate the periodic updating of the TSCA Inventory and to support activities associated with the implementation of TSCA.

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. Under TSCA section 8(a), the Agency may collect information associated with chemical substances to the extent that it is known to or reasonably ascertainable by the submitter. TSCA section 8(a) gives EPA broad discretion in determining the information for which reporting can be required. Some of the types of information which can be required under TSCA section 8(a)(2) include: Categories of use for each chemical substance; estimates of the amount manufactured or processed for each category of use; a description of the byproducts resulting from the manufacture, processing, use, or disposal of each chemical substance; an estimate of the number of individuals exposed in their places of employment; and the duration of such exposure.

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 710.29, and for 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.

This document promulgates the IURA as subpart C in 40 CFR part 710, which includes provisions copied from the existing IUR regulations in 40 CFR part 710 that are not substantively changed as a part of this rulemaking, and the new IURA provisions in this final rule. Failure to comply fully with any provision of this final rule will be a violation of TSCA section 15 and will subject the violator to the penalties of TSCA sections 16 and 17.

#### *C. What is the Inventory Update Rule (IUR)?*

The IUR requires U.S. manufacturers of organic chemicals to report to EPA every 4 years the identity of chemical substances manufactured annually during the reporting year in quantities of 10,000 lbs. or more at each plant site they own or control. The current IUR generally excludes several categories of substances from its reporting requirements, i.e., polymers, inorganic substances, microorganisms, and naturally occurring chemical substances. Plant sites subject to the rule are currently required to report information such as company name, plant site location, plant site Dun and Bradstreet number(s), identity of the reportable chemical substance, and production volume of each reportable chemical substance. Data were reported to EPA under the IUR in 1986, 1990, 1994, and 1998, and a collection is occurring in 2002.

The data reported under IUR are used to update the information maintained on the TSCA Inventory, which is a listing of chemical substances in commerce. 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 (See Unit II.E. for