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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA-HQ-OPPT-2012-0221; FRL-9910-84]

RIN 2070-AK01

Partial Exemption of Certain Chemical Substances From Reporting Additional Chemical Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the list of chemical substances that are partially exempt from reporting additional information under the Chemical Data Reporting (CDR) rule. EPA has determined that, based on the totality of information on the chemical substances listed in this document, the Agency has low current interest in their CDR processing and use information. EPA reached this conclusion after considering a number of factors, including: The risk of adverse human health or environmental effects, information needs for CDR processing and use information, and the availability of other sources of comparable processing and use information.

DATES: This direct final rule is effective August 18, 2014 without further notice, unless EPA receives adverse comment on or before July 21, 2014. If EPA receives written adverse comments, EPA will withdraw the applicable partial exemption in this direct final rule before its effective date. See also Unit II. of the **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2012-0221, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **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:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about

dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Karen Hoffman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-8158; email address: koffman.karen@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. Executive Summary

A. What action is the agency taking?

This partial exemption eliminates an existing reporting requirement under 40 CFR 711.6(b)(2). With this direct final rule, the following chemical substances are being exempted from reporting of the information described in 40 CFR 711.15(b)(4): 1,3-Propanediol (Chemical Abstracts Service Registry Number (CASRN) 504-63-2); oils, palm kernel (CASRN 8023-79-8); and bentonite, acid-leached (CASRN 70131-50-9). However, by existing terms at 40 CFR 711.6, this partial exemption will become inapplicable to a subject chemical substance in the event that the chemical substance later becomes the subject of a rule proposed or promulgated under TSCA section 4, 5(a)(2), 5(b)(4), or 6, an enforceable consent agreement (ECA) developed under the procedures of 40 CFR part 790, an order issued under TSCA section 5(e) or 5(f), or relief that has been granted under a civil action under TSCA section 5 or 7. EPA is also making non-substantive technical amendments to 40 CFR 711.6(b)(2) to reflect that while prior information collections may have been styled as either “IUR collections” or “CDR collections,” prospective obligations are styled as “under the CDR.”

B. Why is the agency taking this action?

This amendment is in response to a petition request (Ref. 1) submitted under 40 CFR 711.6(b)(2)(iii)(A). EPA reviewed the information put forward in the petition and additional information against the considerations listed at 40 CFR 711.6(b)(2)(ii). EPA’s chemical substance-specific analysis is detailed in supplementary documents available in the docket under docket ID number EPA-HQ-OPPT-2012-0221 (Refs. 2, 3, and 4). The Agency is adding these three chemical substances to the

partially exempt chemical substances list because it has concluded that, based on the totality of information available, the CDR processing and use information for these chemical substances is of low current interest.

C. What is the Agency’s authority for taking this action?

This action is issued under the authority of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2600 *et seq.*, to carry out the provisions of TSCA section 8(a), 15 U.S.C. 2607(a). Section 8(a) of TSCA authorizes EPA to promulgate rules under which manufacturers of chemical substances and mixtures must submit such information as the Agency may reasonably require. The partial exemption list was established in 2003 (Ref. 5) and can be found in 40 CFR 711.6.

D. What are the impacts of this action?

There are no costs associated with this action and the benefits provided are related to avoiding potential costs. This partial exemption eliminates an existing reporting requirement without imposing any new requirements. See also the discussion in Unit V.

E. Does this action apply to me?

You may be potentially affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(7) to include import) the chemical substances contained in this direct final rule. The North American Industrial Classification System (NAICS) codes provided here are not intended to be exhaustive, but rather provide a guide to help readers determine whether this document applies to them. Potentially affected entities may include chemical manufacturers subject to CDR reporting of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

F. What should I consider as I prepare my comments for EPA?

Do not submit Confidential Business Information (CBI) to EPA through [regulations.gov](http://www.regulations.gov) or email. 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.

II. Direct Final Rule Procedures

EPA is issuing this partial exemption as a direct final rule because it views this as a non-controversial action and anticipates no adverse comment. This direct final rule allows for comments to be submitted on or before July 21, 2014. In any comment submitted, please specify whether the comment is adverse and whether it applies to all the chemical substances in the direct final rule.

If EPA receives timely adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments related to the adverse comment will not take effect. At that time, EPA may also issue a notice of proposed rulemaking respecting the addition of chemical substances to the list of chemical substances that are exempt from reporting the information described in 40 CFR 711.15(b)(4).

If EPA does not receive any timely adverse comment, this amendment will become effective as indicated under DATES without any further action by EPA.

III. Petition Process and “Low Current Interest” Partial Exemption

In 2003, EPA established a partial exemption for certain chemical substances for which EPA determined the processing and use information required in 40 CFR part 711 to be of “low current interest.” This provision of the rule enables the public to petition EPA to add or remove a chemical substance to or from the list of partially exempt chemical substances. In determining whether the partial exemption should apply to a particular chemical substance, EPA considers the totality of information available for the chemical substance in question, including but not limited to information associated with one or more of the considerations listed at 40 CFR 711.6(b)(2)(ii).

The addition of a chemical substance under this partial exemption will not necessarily be based on its potential risks. The addition is based on the Agency’s current assessment of the need for collecting CDR processing and use information for that chemical substance, based upon the totality of information considered during the petition review process. Additionally, interest in a chemical substance or a chemical substance’s processing and use

information may increase in the future, at which time EPA will reconsider the applicability of a partial exemption for a chemical substance.

IV. Rationale for These Partial Exemptions

EPA is granting a partial exemption for 1,3-propanediol (CASRN 504–63–2); oils, palm kernel (CASRN 8023–79–8); and bentonite, acid-leached (CASRN 70131–50–9) because the Agency has concluded it has low current interest in the processing and use information for these chemical substances. EPA made these determinations based on our analysis of the totality of information on the three chemical substances, including information about the chemical substances relevant to the considerations defined at 40 CFR 711.6(b)(2)(ii). EPA’s chemical substance-specific analysis is detailed in supplementary documents available in the docket under docket ID number EPA–HQ–OPPT–2012–0221 (Refs. 2, 3, and 4).

V. Economics Impacts

EPA has evaluated the economic consequences associated with amending the CDR partially exempt chemical substances list. Since this direct final rule creates a partial exemption from CDR reporting, without creating any new reporting or recordkeeping requirements, this action does not impose any new burden. Based on the currently approved Information Collection Request (ICR), the burden estimates for reporting processing and use information are 83.02 hours per submission in the first reporting cycle and 65.63 hours in subsequent reporting cycles. Based on 2012 CDR reporting, EPA estimates that 12 submissions with manufacture volumes of 25,000 pounds or greater will be received for these 3 chemical substances in 2016 and subsequent reporting years. Eliminating the requirement to report processing and use information for these submissions results in a total burden savings of approximately 790 hours and \$50,000 in future reporting cycles (Ref. 6).

VI. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult

the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. Letter from Herbert Estreich, Esq., Keller and Heckman LLP, to EPA, OPPT CDR Submission Coordinator. December 14, 2011.
2. EPA, OPPT. 1,3-Propanediol (CASRN 504–63–2) Partial Exemption Analysis. November 2013.
3. EPA, OPPT. Oils, palm kernel (CASRN 8023–79–8) Partial Exemption Analysis. November 2013.
4. EPA, OPPT. Bentonite, acid-leached (CASRN 70131–50–9) Partial Exemption Analysis. November 2013.
5. EPA. TSCA Inventory Update Rule Amendments; Final rule. **Federal Register** (68 FR 848, January 7, 2003) (FRL–6767–4).
6. EPA, OPPT. Cost Savings Estimate of Adding Three Chemicals to the 40 CFR 711.6(b)(2) Chemical Substance List. May 7, 2014.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action as defined by Executive Order 12866 (58 FR 51735, October 4, 1993). Accordingly, this action was not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to PRA, 44 U.S.C. 3501 *et seq.*, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, as applicable.

The information collection requirements related to CDR have already been approved by OMB pursuant to PRA under OMB control number 2070–0162 (EPA ICR No. 1884.06). Since this action creates a partial exemption from that reporting, without creating any new reporting or recordkeeping requirements, this action does not impose any new burdens that require additional OMB approval.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a

substantial number of small entities under RFA, 5 U.S.C. 601 *et seq.* In making this determination, the impact of concern is any significant adverse economic impact on small entities, because the primary purpose of a final regulatory flexibility analysis is to identify and address regulatory alternatives that “minimize the significant economic impact on small entities” 5 U.S.C. 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule has no net burden effect on the small entities subject to the rule.

As indicated previously, EPA is eliminating an existing reporting requirement for the chemical substances identified in this document. In granting a partial exemption from existing reporting, this action will not have a significant economic impact on any affected entities, regardless of their size.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. In granting a partial exemption from existing reporting, this action imposes no new enforceable duty on any State, local, or Tribal governments, or on the private sector. In addition, based on EPA’s experience with chemical data reporting under TSCA, State, local, and Tribal governments are not engaged in the activities that would require them to report chemical data under 40 CFR part 711.

E. Executive Order 13132: Federalism

This action would 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 (64 FR 43255, August 10, 1999).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly or uniquely affect the communities of Indian Tribal governments, nor involve or impose any

requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000) do not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use.

I. National Technology Transfer Advancement Act (NTTAA)

Since this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. As such, this action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

VIII. Congressional Review Act (CRA)

Pursuant to the CRA, 5 U.S.C. 801 *et seq.*, EPA will submit a report containing this action 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 action in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects 40 CFR Part 711

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 13, 2014.

James Jones,

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 § 711.6:

- a. Remove “IUR” and add in its place “CDR” in the introductory text of paragraphs (b)(1) and (b)(2)(iv).
- b. Remove “Inventory Update” and add in its place “TSCA Chemical Data” in the heading for Table 1 in paragraph (b)(1).
- c. Remove “IUR” and add in its place “IUR or CDR” in paragraph (b)(2)(ii)(A).
- d. Remove the second sentence in paragraph (b)(2)(iii)(A) and add two sentences in its place.
- e. Add in numerical order by CASRN number the following entries to Table 2 in paragraph (b)(2)(iv).

The amendments read as follows:

§ 711.6 Chemical substances for which information is not required.

- * * * * *
- (b) * * *
- (2) * * *
- (iii) * * *
- (A) * * * Your request must be in writing and must be submitted to the address provided in 40 CFR 700.17(a). Please label your request as follows: Attention: TSCA Chemical Data Reporting—Partial Exemption Request.
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- * * * * *
- (iv) * * *

TABLE 2—CASRN OF PARTIALLY EXEMPT CHEMICAL SUBSTANCES

CASRN	Chemical
* * * * *	
504–63–2	1,3-Propanediol.
* * * * *	
8023–79–8	Oils, palm kernel.
* * * * *	
70131–50–9 ...	Bentonite, acid-leached.
* * * * *	

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