

§ 712.3

40 CFR Ch. I (7-1-07 Edition)

50 in any 1 year. Additional recommended but not designated chemicals may be added after proposal, and consideration of public comment.

[47 FR 26998, June 22, 1982, as amended at 50 FR 34809, Aug. 28, 1985; 60 FR 31921, June 19, 1995]

§ 712.3 Definitions.

The definitions in section 3 of TSCA, 15 U.S.C. 2602, apply for this part. In addition, the following definitions apply:

(a) *Byproduct* means any chemical substance or mixture produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance or mixture.

(b) *EPA* means the U.S. Environmental Protection Agency.

(c) *Import in bulk form* means to import a chemical substance (other than as part of a mixture or article) in any quantity, in cans, bottles, drums, barrels, packages, tanks, bags, or other containers used for purposes of transportation or containment, if the chemical substance has an end use or commercial purpose separate from the container.

(d) *Importer* means anyone who imports a chemical substance, including a chemical substance as part of a mixture or article, into the customs territory of the U.S. and includes the person liable for the payment of any duties on the merchandise, or an authorized agent on his behalf. Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of 19 CFR part 144. For the purposes of this definition, the customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(e) *Impurity* means a chemical substance unintentionally present with another chemical substance or mixture.

(f) *Intermediate* means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions. (See also paragraph (j) of this section.)

(g) *Known to or reasonably ascertainable by* means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden.

(h) *Manufacture for commercial purposes* means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(1) For commercial distribution, including for test marketing.

(2) For use by the manufacturer, including use for product research and development, or as an intermediate. Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including byproducts and coproducts that are separated from that other substance or mixture, and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical produced for a commercial purpose.

(i) *Mixture* means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that *mixture* does include (1) any combination which occurs, in whole or in part, as a result of a chemical reaction if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined, and if all

of the chemical substances comprising the combination are included in the EPA, TSCA Chemical Substance Inventory after the effective date of the premanufacture notification requirement under 40 CFR part 720, and (2) hydrates of a chemical substance or hydrated ions formed by association of a chemical substance with water. The term mixture includes alloys, inorganic glasses, ceramics, frits, and cements, including Portland cement.

(j) *Non-isolated intermediate* means any intermediate that is not intentionally removed from the equipment in which it is manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture. (See also paragraph (f) of this section.)

(k) *Owned or controlled by the parent company* means the parent owns or controls 50 percent or more of the other company's voting stock or other equity rights, or has the power to control the management and policies of the other company.

(l) *Person* means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(m) *Process for commercial purposes* means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(n) *Site* means a contiguous property unit. Property divided only by a public right-of-way shall be considered one site. There may be more than one manufacturing plant on a single site.

(o) *Test marketing* means distributing in commerce a limited amount of a chemical substance or mixture, or article containing such substance or mixture, to a defined number of potential customers, during a predetermined testing period, to explore market capability prior to broader distribution in commerce.

(p) *TSCA* means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

§ 712.5 Method of identification of substances for reporting purposes.

(a) *Report on TSCA-regulable quantities*. Unless specifically otherwise required, respondents must report only about quantities of a chemical that is defined as a chemical substance under TSCA section 3(2).

(b) *Chemicals from natural sources*. A manufacturer of a chemical substance which is extracted from an ore, from oil, or from any other natural source must report only about the manufacturing steps for, and the uses of, that chemical, not about production of the natural source material or other crude precursors derived from the natural source material.

For example, persons who manufacture a chemical substance such as "sweetened naphtha, 64741-87-3," but do not refine the naphtha to produce "hexane, 110-54-3" would not report on hexane. Only the production of "hexane" as an isolated product must be reported—not previous production of more crude, complex substances such as naphtha from which hexane is extracted. Thus, persons who produce crude oil, ores, and other crude natural materials, but do not carry them through further manufacturing steps that produce a listed chemical have no reporting responsibilities under this Part. Note, however, that any method of extraction, refinement, or purification of a listed chemical substance is considered to be manufacturing for the purposes of this rule.

(c) *Chemical substances as marketed*. This part requires reporting about chemical substances as they are marketed or used in practice. The following preparations of a chemical substance must be reported as the substance itself, not as a mixture, since these preparations are regarded as the substance in practice.

(1) The chemical substance in aqueous solution.