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of a chemical substance which is described by one of the generic names in paragraph (a) of this section makes an inquiry under §710.7(g) of this chapter or §720.25(b) of this chapter as to whether the specific substance is on the Inventory and EPA informs the manufacturer or importer that the substance is on the Inventory, EPA will also inform the manufacturer or importer whether the substance is subject to this section.

(2) Except for manufacturers and importers of P-83–1005 and P-83–1062, no processor, distributor, or user of P-83–1005 or P-83–1062 will be in violation of this section unless that person has received a letter specified in paragraph (d)(1) or (3) of this section or a container with the label specified in paragraph (d)(2) of this section.

(f) *Exemptions and exclusions.* The chemical substances identified in paragraph (a) of this section are not subject to the requirements of paragraphs (c) and (d) of this section, if:

(1) The substance is manufactured, imported, processed, distributed in commerce, and used only in small quantities solely for research and development, and if the substance is manufactured, imported, processed, distributed in commerce, and used in accordance with section 5(h)(3) of the Act.

(2) The substance is manufactured, imported, processed, distributed in commerce, or used only as an impurity.

(3) The substance is imported, processed, distributed in commerce, or used only as part of an article.

(4) The substance is manufactured solely for export.

(g) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Failure or refusal to permit access to or copying of records, as required under section 11 of the Act, is a violation of a section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit entry or inspection, as required under section 11 of the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C 2615) for each violation.

(5) EPA may seek to enjoin the processing, distribution in commerce, or use of a chemical substance in violation of this section, act to seize any chemical substance, processed, distributed in commerce, or used in violation of this section or take other actions under the authority of section 7 or 17 of the Act (15 U.S.C. 2605 or 2616).

[49 FR 2772, Jan. 23, 1984]

PART 749—WATER TREATMENT CHEMICALS

Subparts A–C [Reserved]

Subpart D—Air Conditioning and Cooling Systems

Sec.

749.68 Hexavalent chromium-based water treatment chemicals in cooling systems.

AUTHORITY: 15 U.S.C. 2605 and 2607.

Subparts A–C [Reserved]

Subpart D—Air Conditioning and Cooling Systems

§749.68 Hexavalent chromium-based water treatment chemicals in cooling systems.

(a) *Chemicals subject to this section.* Hexavalent chromium-based water treatment chemicals that contain hexavalent chromium, usually in the form of sodium dichromate (CAS No. 10588–01–9), are subject to this section. Other examples of hexavalent chromium compounds that can be used to treat water are: Chromic acid (CAS No. 7738–94–5), chromium trioxide (CAS No. 1333–83–0), dichromic acid (CAS No.13530–68–2), potassium chromate (CAS No. 7789–00–6), potassium dichromate (CAS No. 7778–50–9), sodium chromate (CAS No. 7775–11–3), zinc chromate (CAS No. 13530–65–9), zinc chromate hydroxide (CAS No. 153936–94–6), zinc dichromate (CAS No. 14018–95–2), and zinc potassium chromate (CAS No. 11103–86–9).

(b) *Purpose.* The purpose of this section is to impose certain requirements on activities involving hexavalent chromium-based water treatment chemicals to prevent unreasonable

risks associated with human exposure to air emissions of hexavalent chromium from comfort cooling towers.

(c) *Applicability.* This section is applicable to use of hexavalent chromium-based water treatment chemicals in comfort cooling towers and to distribution in commerce of hexavalent chromium-based water treatment chemicals for use in cooling systems.

(d) *Definitions.* Definitions in section 3 of the Toxic Substances Control Act, 15 U.S.C. 2602, apply to this section unless otherwise specified in this paragraph. In addition, the following definitions apply:

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

(2) *Chilled water loop* means any closed cooling water system that transfers heat from air handling units or refrigeration equipment to a refrigeration machine, or chiller.

(3) *Closed cooling water system* means any configuration of equipment in which heat is transferred by circulating water that is contained within the equipment and not discharged to the air; chilled water loops are included.

(4) *Comfort cooling towers* means cooling towers that are dedicated exlusively to and are an integral part of heating, ventilation, and air conditioning or refrigeration systems.

(5) *Container* means any bag, barrel, bottle, box, can, cylinder, drum, or the like that holds hexavalent chromium-based water treatment chemicals for use in cooling systems.

(6) *Cooling tower* means an open water recirculating device that uses fans or natural draft to draw or force ambient air through the device to cool warm water by direct contact.

(7) *Cooling system* means any cooling tower or closed cooling water system.

(8) *Distributor* means any person who distributes in commerce water treatment chemicals for use in cooling systems.

(9) *EPA* means the Environmental Protection Agency.

(10) *Hexavalent chromium* means the oxidation state of chromium with an oxidation number of +6; a coordination number of 4 and tetrahedral geometry.

(11) *Hexavalent chromium-based water treatment chemicals* means any chemical containing hexavalent chromium which can be used to treat water, either alone or in combination with other chemicals, where the mixture can be used to treat water.

(12) *Industrial cooling tower* means any cooling tower used to remove heat from industrial processes, chemical reactions, or plants producing electrical power.

(13) *Label* means any written, printed, or graphic material displayed on or affixed to containers of hexavalent chromium-based water treatment chemicals that are to be used in cooling systems.

(14) *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.

(15) *Shipment* means the act or process of shipping goods by any form of conveyance.

(16) *Water treatment chemicals* means any combination of chemical substances used to treat water in cooling systems and can include corrosion inhibitors, antiscalants, dispersants, and any other chemical substances except biocides.

(e) *Prohibition of distribution in commerce and commercial use.* (1) All persons are prohibited from distributing in commerce hexavalent chromium-based water treatment chemicals for use in comfort cooling towers.

(2) All persons are prohibited from commercial use of hexavalent chromium-based water treatment chemicals in comfort cooling towers.

(3) Distribution in commerce of hexavalent chromium-based water treatment chemicals for use in, and commercial use of hexavalent chromium-based water treatment chemicals in, industrial cooling towers and closed cooling water systems are not prohibited.

(f) *Effective dates.* (1) The prohibition described in paragraph (e)(1) of this section against distributing in commerce hexavalent chromium-based water treatment chemicals for use in

comfort cooling towers is effective February 20, 1990.

(2) The prohibition described in paragraph (e)(2) of this section against using hexavalent chromium-based water treatment chemicals in comfort cooling towers is effective May 18, 1990.

(g) *Labeling.* (1) Each person who distributes in commerce hexavalent chromium-based water treatment chemicals for use in cooling systems after February 20, 1990, shall affix a label or keep affixed an existing label in accordance with this paragraph, to each container of the chemicals. The label shall consist of the following language:

WARNING: This product contains hexavalent chromium. Inhalation of hexavalent chromium air emissions increases the risk of lung cancer. Federal Law prohibits use of this substance in comfort cooling towers, which are towers that are open water recirculation devices and that are dedicated exclusively to, and are an integral part of, heating, ventilation, and air conditioning or refrigeration systems.

(2) The first word of the warning statement shall be capitalized, and the type size for the first word shall be no smaller than 10-point type for a label less than or equal to 10 square inches in area, 12-point type for a label above 10 but less than or equal to 15 square inches in area, 14-point type for a label above 15 but less than or equal to 30 square inches in area, or 18-point type for a label above 30 square inches in area. The type size of the remainder of the warning statement shall be no smaller than 6-point type. All required label text shall be in English and of sufficient prominence and shall be placed with such conspicuousness, relative to other label text and graphic material, to ensure that the warning statement is read and understood by the ordinary individual under customary conditions of purchase and use.

(h) *Recordkeeping.* (1) Each person who distributes in commerce any hexavalent chromium-based water treatment chemicals for use in cooling systems after February 20, 1990, shall retain in one location at the headquarters of the distributor documentation showing:

(i) The name, address, contact, and telephone number of the cooling system owners/operators to whom the chemicals were shipped.

(ii) The chemicals included in the shipment, the amount of each chemical shipped, and the location(s) at which the chemicals will be used.

(2) The information described in paragraph (h)(1) of this section shall be retained for 2 years from the date of shipment.

(i) *Reporting.* (1) Each person who distributes in commerce any hexavalent chromium-based water treatment chemicals for use in cooling systems shall report to the Regional Administrator of the EPA Region in which the distibutor headquarters is located. The report shall be postmarked not later than February 20, 1990, or 30 days after the person first begins the distribution in commerce of hexavalent chromium-based water treatment chemicals, whichever is later, and shall include:

(i) For the headquarters, the distributor name, address, telephone number, and the name of a contact.

(ii) For the shipment offices through which hexavalent chromium-based water treatment chemicals are sold for use in cooling systems, the distributor name, address, telephone number, and the name of a contact.

(2) The report identified in paragraph (i)(1) of this section shall be updated as changes occur in the distributor headquarters or shipment office information. The updated report shall be submitted to the Regional Administrator and postmarked no later than 10 calendar days after the change occurs.

(3) A person may assert a claim of confidentiality for any information submitted to EPA in connection with this rule. Any claim of confidentiality must accompany the information when submitted to EPA. Persons claiming information as confidential should do so by circling, bracketing, or underlining it and marking it with ''CONFIDENTIAL.'' EPA will disclose information subject to a claim of confidentiality only to the extent permitted by section 14 of TSCA and 40 CFR part 2, subpart B. If a person does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public without further notice to that person.

(j) *Enforcement.* (1) Failure to comply with any provision of this section is a violation of section 15 of the Act (15 U.S.C. 2614).

(2) Failure or refusal to establish and maintain records or to permit access to or copying of records, as required by the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(3) Failure or refusal to permit entry or inspection as required by section 11 of the Act (15 U.S.C. 2610) is a violation of section 15 of the Act (15 U.S.C. 2614).

(4) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(k) *Inspections.* EPA will conduct inspections under section 11 of the Act (15 U.S.C. 2610) to ensure compliance with this section.

[55 FR 240, Jan. 3, 1990, as amended at 59 FR 42773, Aug. 19, 1994]

PART 750—PROCEDURES FOR RULEMAKING UNDER SECTION 6 OF THE TOXIC SUBSTANCES CONTROL ACT

Subpart A—Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act

Sec.

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APPENDIX A TO SUBPART A

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Subpart C—Interim Procedural Rules for Processing and Distribution in Commerce Exemptions

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AUTHORITY: 15 U.S.C. 2605.

Subpart A—Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act

SOURCE: 42 FR 61259, Dec. 2, 1977, unless otherwise noted.

§ 750.1 Applicability.

This part applies to all rulemakings under authority of section 6 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2605.

§ 750.2 Notice of proposed rulemaking.

(a) Each rulemaking becomes subject to this part with the publication of a Notice of Proposed Rulemaking in the FEDERAL REGISTER. A proceeding under section 6 of the Toxic Substances Control Act may begin, as appropriate, with the publication in the FEDERAL REGISTER of a Notice of Proposed Rulemaking, an Advance Notice of Proposed Rulemaking, or notice of other action, such as a formal regulatory investigation designed to lead to issuance of rules within a reasonable time.

(b) Each such notice shall contain:

(1) A draft finding that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use or disposal of the chemical substance(s) or mixture(s) at issue, or any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment.

(2) A Notice of Proposed Rulemaking stating with particularity the reasons