submission period, any person described in §711.8 must report as described in this part.

[76 FR 54933, Sept. 6, 2011, as amended at 77 FR 36172, June 18, 2012]

§ 711.22 Duplicative reporting.

(a) *With regard to TSCA section 8(a) rules.* Any person subject to the requirements of this part who previously has complied with reporting requirements of a rule under TSCA section 8(a) by submitting the information described in §711.15 for a chemical substance described in §711.5 to EPA, and has done so within 1 year of the start of a submission period described in §711.20, is not required to report again on the manufacture of that chemical substance at that site during that submission period.

(b) *With regard to importers.* This part requires that only one report be submitted on each import transaction involving a chemical substance described in §711.5. When two or more persons are involved in a particular import transaction and each person meets the Agency's definition of ''importer'' as set forth in 40 CFR 704.3, they may determine among themselves who should submit the required report; if no report is submitted as required under this part, EPA will hold each such person liable for failure to report.

(c) *Toll manufacturers and persons contracting with a toll manufacturer.* This part requires that only one report per site be submitted on each chemical substance described in §711.5. When a company contracts with a toll manufacturer to manufacture a chemical substance, and each party meets the Agency's definition of ''manufacturer'' as set forth in §711.3, they may determine among themselves who should submit the required report for that site. However, both the contracting company and the toll manufacturer are liable if no report is made.

§ 711.25 Recordkeeping requirements.

Each person who is subject to the reporting requirements of this part must retain records that document any information reported to EPA. Records relevant to reporting during a submission period must be retained for a period of 5 years beginning on the last day of the submission period. Submitters are encouraged to retain their records longer than 5 years to ensure that past records are available as a reference when new submissions are being generated.

§ 711.30 Confidentiality claims.

(a) *Confidentiality claims.* Any person submitting information under this part may assert a business confidentiality claim for the information at the time it is submitted. Any such confidentiality claims must be made at the time the information is submitted. Confidentiality claims cannot be made when a response is left blank or designated as not known or reasonably ascertainable. These claims will apply only to the information submitted with the claim. New confidentiality claims, if appropriate, must be asserted with regard to information submitted during a different submission period. Guidance for asserting confidentiality claims is provided in the instructions identified in §711.35. Information claimed as confidential in accordance with this section will be treated and disclosed in accordance with the procedures in 40 CFR part 2.

(b) *Chemical identity.* A person may assert a claim of confidentiality for the chemical identity of a specific chemical substance only if the identity of that chemical substance is treated as confidential in the Master Inventory File as of the time the report is submitted for that chemical substance under this part. The following steps must be taken to assert a claim of confidentiality for the identity of a reportable chemical substance:

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official.

(i) What harmful effects to your competitive position, if any, or to your supplier's competitive position, do you think would result from the identity of the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(ii) How long should confidential treatment be given? Until a specific date, the occurrence of a specific event, or permanently? Why?

(iii) Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent as it applies to the chemical substance? If the chemical substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?

(iv) Has the identity of the chemical substance been kept confidential to the extent that your competitors do not know it is being manufactured or imported for a commercial purpose by anyone?

(v) Is the fact that the chemical substance is being manufactured (including imported) for a commercial purpose available to the public, for example in technical journals, libraries, or State, local, or Federal agency public files?

(vi) What measures have been taken to prevent undesired disclosure of the fact that the chemical substance is being manufactured (including imported) for a commercial purpose?

(vii) To what extent has the fact that this chemical substance is manufactured (including imported) for commercial purposes been revealed to others? What precautions have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

(viii) Does this particular chemical substance leave the site of manufacture (including import) in any form, *e.g.*, as product, effluent, emission? If so, what measures have been taken to guard against the discovery of its identity?

(ix) If the chemical substance leaves the site in a product that is available to the public or your competitors, can the chemical substance be identified by analysis of the product?

(x) For what purpose do you manufacture (including import) the chemical substance?

(xi) Has EPA, another Federal agency, or any Federal court made any pertinent confidentiality determinations regarding this chemical substance? If so, please attach copies of such determinations.

(2) If any of the information contained in the answers to the questions listed in paragraph (b)(1) of this section is asserted to contain confidential business information (CBI), the submitter must 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.''

(c) *Site identity.* A submitter may assert a claim of confidentiality for a site only if the linkage of the site with a reportable chemical substance is confidential and not publicly available. The following steps must be taken to assert a claim of confidentiality for a site identity:

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) Has site information been linked with a chemical identity in any other Federal, State, or local reporting scheme? For example, is the chemical identity linked to a facility in a filing under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 311, namely through a Material Safety Data Sheet (MSDS)? If so, identify all such schemes. Was the linkage claimed as confidential in any of these instances?

(ii) What harmful effect, if any, to your competitive position do you think would result from the identity of the site and the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the harmful effects?

(2) If any of the information contained in the answers to the questions listed in paragraph (c)(1) of this section is asserted to contain CBI, the submitter must 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.''

(d) *Processing and use information.* A submitter may assert a claim of confidentiality for each data element required by §711.15(b)(4) only if the linkage of the information with a reportable chemical substance is confidential and not publicly available. The following steps must be taken to assert a claim of confidentiality for each data element, individually, required by §711.15(b)(4):

(1) The submitter must submit with the report detailed written answers to the following questions signed and dated by an authorized official:

(i) Is the identified use of this chemical substance publicly known? For example, is information on the use available in advertisements or other marketing materials, professional journals or other similar materials, or in nonconfidential mandatory or voluntary government filings or publications? Has your company ever provided use information on the chemical substance that was not claimed as confidential?

(ii) What harmful effect, if any, to your competitive position or to your customer's competitive position do you think would result from the information reported as required by §711.15(b)(4) and the chemical substance being disclosed in connection with reporting under this part? How could a competitor use such information? Would the effects of disclosure be substantial? What is the causal relationship between the disclosure and the substantial harmful effects?

(2) If any of the information contained in the answers to the questions listed in paragraph (d)(1) of this section is asserted to contain CBI, the submitter must 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.''

(e) *No claim of confidentiality.* If no claim of confidentiality is indicated on Form U submitted to EPA under this part; if Form U lacks the certification required by §711.15(b)(1); if confidentiality claim substantiation required under paragraphs (b), (c), and (d) of this section is not submitted with Form U; or if the identity of a chemical substance listed on the non-confidential portion of the Master Inventory File is claimed as confidential, EPA may make the information available to the public without further notice to the submitter.

§ 711.35 Electronic filing.

(a) You must use e-CDRweb to complete and submit Form U (EPA Form 7740–8). Submissions may only be made as set forth in this section.

(b) Submissions must be sent electronically to EPA via CDX.

(c) Access e-CDRweb and instructions, as follows:

(1) *By Web site.* Go to the EPA Inventory Update Reporting Internet homepage at *http://www.epa.gov/iur* and follow the appropriate links.

(2) *By phone or e-mail.* Contact the EPA TSCA Hotline at (202) 554–1404 or *TSCA-Hotline@epa.gov* for a CD–ROM containing the instructions.

PART 712—CHEMICAL INFORMATION RULES

Subpart A—General Provisions

Sec.

Subpart B—Manufacturers Reporting—Preliminary Assessment Information

AUTHORITY: 15 U.S.C. 2607(a).

SOURCE: 47 FR 26998, June 22, 1982, unless otherwise noted.

Subpart A—General Provisions

§ 712.1 Scope and compliance.

(a) This part establishes procedures for chemical manufacturers and processors to report production, use, and exposure-related information on listed chemical substances. Subpart A establishes requirements that apply to all