

TSCA Chemical Data Reporting

Fact Sheet: Imported Articles

This fact sheet provides information and sample reporting scenarios on the reporting exemption for the import of a chemical substance as part of an article, for purposes of the Chemical Data Reporting (CDR) rule.

The primary goal of this document is to help the regulated community comply with the requirements of the CDR rule. This document does not substitute for that rule, nor is it a rule itself. It does not impose legally binding requirements on the regulated community or on the U.S. Environmental Protection Agency (EPA).

The CDR rule, issued under the Toxic Substances Control Act (TSCA), requires manufacturers (including importers) to give EPA information on the chemicals they manufacture domestically or import into the United States. EPA uses the data, which provides important screening-level exposure related information, to help assess the potential human health and environmental effects of these chemicals and makes the non-confidential business information it receives available to the public.

Imported articles are exempt from the CDR Rule under 40 CFR 711.10(b)

What is an article?

For the purpose of CDR reporting, an “article” is defined at 40 CFR 704.3 (referenced by 40 CFR 711.3) as:

“*Article* means a manufactured item

- (1) which is formed to a specific shape or design during manufacture,
- (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use, and
- (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article, and that result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles; except that fluids and particles are not considered articles regardless of shape or design.”

When is a chemical substance imported “as part of an article”?

- Import of a chemical substance as part of an article is not subject to CDR reporting. See 40 CFR 711.10(b). A chemical substance is considered to be imported “as part of an article” if the substance is not intended to be removed from that article and has no end use or commercial purpose separate from the article of which it is a part. See 42 FR 64583 (1977).
- A chemical substance is not considered to be “imported as part of an article” when:
 - The article is a container used to transport, contain or dispense the substance, or

- The substance is intended to be removed (or released) during the use of the article, or
- The substance has an end use or commercial purpose separate from the article.
- If you import a chemical substance in a drum, barrel, or other container for intentional release, that substance is not eligible for an exemption from reporting under 40 CFR 711.10(b), because the substance is intended to be removed from the article and has an end use separate from the article.
- If you import a chemical substance that you intend to later incorporate into an article for commercial purposes, this intent does not establish whether the substance is eligible for an exemption from reporting under 40 CFR 711.10(b). What matters is whether the substance is imported as part of an article. Some things imported for the purpose of making articles are not themselves articles (e.g., liquid varnish imported for the purpose of manufacturing furniture). Other things imported for the purpose of making articles are themselves articles (e.g., car doors imported for the purpose of manufacturing cars).

Determining whether an item is an imported article under the CDR rule

Questions to consider when determining whether an article is being imported

Does the imported item meet all the requirements of the regulatory definition of “article” at 40 CFR 704.3 (referenced in 40 CFR 711.3):

1. *Has the item been formed to a specific shape or design during manufacture?*

- Import is a type of manufacture for TSCA purposes (See TSCA § 3). Thus, at the point of import, an imported article must have a “specific shape or design.”

2. *Does the imported item have end use function(s) dependent in whole or in part upon its shape or design during end use?*

- At the point of import, an article must have an end-use function “dependent in whole or in part upon its shape or design.” The “specific shape or design” of an article must be related to its particular end use function.
- If the shape and design of an item at the point of import does not serve any function with respect to the item’s end use, then the item being imported is not an article.
- As long as this shape or design is maintained as an essential feature in the finished product, an imported article may undergo further processing subsequent to importation which does not negate the article status of the item or its exemption as an article from CDR requirements.
 - Such processing can include rolling or drawing thinner, cutting or trimming, printing on, laminating, drilling, welding two or more articles together, polishing, buffing, or thermoforming.
 - If plastic or metallic sheeting is imported with a specific thickness, the sheeting may still be considered an imported article even though the expected end use of the sheeting may involve cutting or trimming to a different length or width. However, there must still

be a relationship between the shape or design of the sheeting and the end use of the sheeting.

- Imported items that are in a definite shape solely for the sake of shipping convenience are not considered articles because their end use is not dependent on the shape of the imported item.
 - As an example, plastic or metallic blocks or sheets imported for the purpose of processing the blocks or sheets in such a way that they will entirely lose the shape that they had at the point of import (e.g., by being melted down, molded, extruded, cut up extensively or into small pieces, or further reacted) would not qualify as imported articles.

3. *During its end use, does the imported item have either no change of chemical composition or only those changes of composition which have no commercial purpose separate from that of the article?*

- Imported items that undergo changes in chemical composition upon their end use may still be articles if these changes have no commercial purpose separate from the commercial purpose of the item (e.g., production of chemical substances in the end use of photographic films, batteries, matches, and safety flares). See 40 CFR 710.4(d)(5).
- However, if a product of the chemical change in the imported item has its own commercial purpose, separate from that of the imported item (e.g., it is itself an intermediate in the manufacture of some other chemical substance or is otherwise distributed in commerce for some purpose other than that of the imported item), then the imported item is not an article, by the definition of “article” in 40 CFR 704.3 (referenced in 40 CFR 711.3).

4. *Is the imported item a fluid or particles?*

- Items that exist solely in fluid (including liquid and gas) or particulate form are expressly excluded from the definition of “article.” Furthermore, an item consisting solely of fluid(s) and/or particles does not have a definite shape and, therefore, cannot meet the other elements of the definition of an article in 40 CFR 704.3 (referenced in 40 CFR 711.3).

Examples of manufactured items that are and are not articles

The following sections provide specific examples of how the article determination can be applied to some common items.

1. *The following are considered articles or parts of articles:*

- a) *Transformers (including contained transformer fluid); cigarette lighters (including contained lighter fluid), automobiles (including contained crankcase oil), desiccant packets (including the contained silica gel beads).*
 - The chemical substances contained in these articles are not intended to be removed from or released by these articles and have no intended end use or commercial purpose separate from the articles.

- While the substances contained in the articles would not themselves be articles if they were separately imported in bulk (e.g., in a 50-gallon drum), they are considered parts of the overall imported articles in these instances.
- b) *Metal or plastic sheets, wire, coated fabric, rolled carpet, and sheets of plywood.*
- These items are articles if they are imported in a specific shape or design for a particular end use application, and this shape or design is maintained as an essential feature in the finished product.
 - These items are imported as articles, even if they are later rolled or drawn thinner, cut or trimmed, printed on, laminated, drilled, welded together, polished, buffed, or thermoformed, as long as their shape or design is to be an essential feature of the finished product.
- c) *Thermoformed plastics.*
- If a plastic sheet is thermoformed (molded) into a plastic box, the characteristic shape of the plastic sheet is essentially maintained by virtue of the flat, rectangular sides and bottom of the box, even if the thickness of the sheet is somewhat changed. The imported sheet can in this case still be considered an article.
- d) *Molded plastic parts, machined metal parts, finished pipes, and other shaped and finished construction materials.*
- These items are imported with specific shapes or designs for particular end uses.
- e) *Batteries, instant photographic film.*
- These items undergo changes of composition which have no commercial purpose separate from that of the article.
- f) *Finished fabric.*
- With respect to dyes, water repellent coatings, and flame retardant coatings, even though the dye or coating may be removed or released from the fabric during handling or washing, the removal or release serves no end use function and is not intended to occur. Therefore, the dyes and coatings are imported “as part of” the imported fabric articles.
 - Note, for other similar products that are treated or coated, EPA recognizes that the coating may be removed or released gradually or intermittently during the life of the product (e.g. washing, handling). The coating substance is still imported as part of an article, because its release in these situations is not intended to occur and serves no end use function.
- 2. The following are not considered articles or parts of articles:**
- a) *Ink in pens, caulk in canisters, fire extinguisher fluid, substances or mixtures in aerosol cans, windshield washer fluid in cars, lighter fluid in refill cans.*

- While these substances are contained within an article at the point of import, they are intended to be removed from or released by that article and have an end use or commercial purpose separate from the containing article.
- b) *Metal ingots, billets, blooms, or other bulk metal raw material imported in a shape suited for shipping convenience.*
- Because these items are imported in a shape suited for shipping convenience, their shape does not serve a function with respect to the end use of the items. Following importation, they are expected to be processed in a way that results in a significant change from the shape at the time of import.
- c) *Blocks of plastic or other bulk plastic shapes that are imported and converted into finished plastic articles.*
- These items are imported in a shape suited for shipping convenience. Following importation, they are converted into finished plastic articles through extrusion, injection molding, or other converting processes.
- d) *Articles that have been previously disposed of and are now being imported for reclamation of specific chemical substances or for conversion into a new form, shape or design, such as scrap metal (including scrapped electronics or metal fixtures).*
- These items do not have end use functions dependent in whole or in part upon their shape or design during end use.
- e) *Chemical substances comprising paints, inks, powder coatings, and adhesives, and other chemical substances or mixtures that are imported “in bulk” in fluid or particulate form.*
- Items which consist solely of fluids and/or particles are not articles. Also, if fluid(s) or particles imported in a container are intended to be eventually released from that container, then they are not part of an article because they have an end use that is separate from the shape or design of the article.

Application of the imported articles exemption in different scenarios

1. Company A imports scrap printed circuit boards, sorts them, and recovers the scrap copper, gold, and silver components for re-sale. Are the printed circuit boards considered an article?

No. The imported scrap printed circuit boards do not meet the conditions of the article definition, as set forth at 40 CFR 704.3, because their end use at the point of import – recovery of copper, gold, or silver – is not dependent on their shape or design. Unless another basis for exemption applies, Company A should evaluate whether the amount of each chemical substance in the circuit boards individually meets the 25,000 pound (or 2,500 pound, if applicable) threshold for CDR reporting.

- 2. Company B imports solid toilet bowl cleaners for a commercial purpose. The toilet bowl cleaners are imported as a finished product inside plastic or glass containers that may have various shapes. During use, the solid toilet bowl cleaner is placed into the water tank or under the rim of a toilet, and the cleaner is slowly dissolved into the toilet water. The product formulation consists of mixtures of several chemical substances. Are the imported solid toilet bowl cleaners considered articles?**

No. The toilet bowl cleaners do not meet the conditions of the article definition, as set forth at 40 CFR 704.3, because their function does not depend upon a specific shape or design; the shape and design may change as the cleaners dissolve during use. Unless another basis for exemption applies, Company B should evaluate whether the amount of each chemical substance in the product formulation individually meets the 25,000 pound (or 2,500 pound, if applicable) threshold for CDR reporting.

- 3. Company C imports steel sheets of a specific length, width, and thickness and forms them into pipes. During the pipe forming process, the steel is simply bent and welded, and there is no change in the steel's composition. Would the imported steel qualify as an article?**

Yes. The steel sheets meet the conditions of the article definition, as set forth at 40 CFR 704.3. It appears that the steel sheets were formed to a specific shape or design when Company C imported them. They are imported at a specific shape and dimension suited to the type of pipe to be manufactured. Thus, the end use of the steel sheets depends on the shape and design (including dimensions) of the steel sheets. Further, there is no change in chemical composition during their end use. Therefore, the steel sheets satisfy all three parts of the article test and are eligible for the exemption for imported articles at 40 CFR 711.10(b).

- 4. Company E imports desiccant in bulk containers for use in its drying operation. Company E pours the desiccant from the bulk container into a drying chamber. The desiccant must be in particles ranging in size from 1.5 to 2.5 mm in diameter to ensure that it remains in the drying chamber containing it during use, while still providing sufficient surface area to dry the process stream passing through the chamber. Can the desiccant be considered an article with respect to CDR reporting since it has a size and design requirement that serves its end use function?**

No. For purposes of CDR, the desiccant particles are not articles and thus are not exempt from reporting. Particles are not considered articles regardless of shape or design (40 CFR 704.3) (referenced in 40 CFR 711.3).

5. Company F imports High Density Polyethylene (HDPE) chips and scrap HDPE materials. After import, Company E melts and mixes the HDPE materials to fabricate HDPE sheets. Can the HDPE chips and scrap HDPE pieces be considered articles?

No. These chips and pieces do not meet the conditions of the article definition, as defined at 40 CFR 704.3, because their end use function is to be further melted and/or molded to fabricate another product. As such, their end use function does not depend upon their shape or design upon import.

Note, however, that HDPE is a polymer. Polymers are fully exempt from CDR reporting under 40 CFR 711.6(a)(1) unless subject to certain TSCA actions. (See [TSCA Chemical Data Reporting Fact Sheet on Chemical Substances which are the Subject of Certain TSCA Actions](#) for additional information on CDR reporting.) Since HDPE is not subject to any TSCA actions that would affect CDR reporting, reporting of the imported HDPE chips and scrap is not required by the CDR rule.

6. An agent accepts import of imported cars containing brake fluid as well as drums containing brake fluid. Would the brake fluid in the imported cars qualify as being imported as part of an article? Would the brake fluid in the imported drums qualify as being imported as part of an article?

When imported as a component of the imported car, the brake fluid is part of the article. The brake fluid is not intended to be released during the use of the car, and the brake fluid does not serve any commercial purpose separate from being a component of the car. Therefore, when imported as part of the car, the brake fluid is exempt from reporting under CDR.

When imported in a drum, the brake fluid is not part of the article because the brake fluid in the drum is intended to be removed from the drum and has an end use separate from the drum (i.e., to be used in a car). The drum was imported as a container for transporting, storing, and dispensing brake fluid. Therefore, when imported in a drum, the brake fluid would be reportable under CDR if it meets the other reporting requirements (e.g., imported in quantities above the reporting threshold).

For further information:

To access copies of additional fact sheets and other CDR information, log onto www.epa.gov/cdr.

If you have questions about CDR, you can contact the TSCA Hotline by phone at 202-554-1404 or e-mail your question to eCDRweb@epa.gov.