

**Prepublication Copy Notice:**

The Assistant Administrator for Chemical Safety and Pollution Prevention signed the following *Federal Register* document on September 16, 2016:

Title: **Chemical Data Reporting; 2016 Submission Period Extension**  
Action: Final Rule  
FRL: 9952-64  
Docket No.: **EPA-HQ-OPPT-2009-0187**

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For further information about the docket and, if applicable, instructions for commenting, please consult the ADDRESSES section in the front of the *Federal Register* document.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 711**

**[EPA-HQ-OPPT-2009-0187; FRL-9952-64]**

**RIN 2070-AJ43**

**Chemical Data Reporting; 2016 Submission Period Extension**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations by extending the submission deadline for 2016 reports from September 30, 2016 to October 31, 2016. This is a one-time extension for the 2016 submission period only. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report current data on the manufacturing, processing, and use of the chemical substances.

**DATES:** This final rule is effective [*insert date of publication in the Federal Register*].

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2009-0187, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket

is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Susan Sharkey, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8789; email address: [Sharkey.susan@epa.gov](mailto:Sharkey.susan@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](mailto:TSCA-Hotline@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Does this Action Apply to Me?**

You may be potentially affected by this action if you manufacture (including import and manufacture as a byproduct) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, e.g., chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, e.g., utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

### **II. Background**

*A. What Action is the Agency Taking?*

The 2016 CDR submission period is from June 1 to September 30, 2016 (40 CFR 711.20). EPA is issuing this amendment to extend the deadline for 2016 CDR submission reports until October 31, 2016. This is a one-time extension: subsequent submission periods (recurring every four years, next in 2020) are not being amended.

The Agency is taking this action in response to concerns raised by the regulated community about their ability to submit the required information within the prescribed period. The written request to extend the CDR submission period is included in the docket (see ADDRESSES). The compelling concerns raised by industry include delays in reporting as a result of issues associated with several aspects of electronic reporting. EPA believes it is appropriate to extend the reporting period to allow the regulated community additional time to submit their reports. With respect to the timing of this action, the need for the Agency to extend the deadline arose, in part, as a result of issues experienced by the regulated community with several aspects of electronic reporting that were brought to the Agency's attention only recently. Specifically, these issues include difficulties with inexact entries when using XML Schema and the length of time for data validation.

*B. What is the Agency's Authority for Taking this Action?*

The CDR rule was issued pursuant to the authority of TSCA section 8(a), 15 U.S.C. 2607(a). Under section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), the Agency may issue a final rule without a prior proposal if it finds that notice and public participatory procedures are impracticable, unnecessary, or contrary to the public interest. In this case, for the extension sought, the Agency does find that normal notice and public process rulemaking is impracticable. Given that the current reporting deadline is

September 30, 2016, it is impracticable to follow notice and comment procedures on an extension of that deadline, because that process would not allow the rule to be finalized before the current reporting deadline. The Agency only recently learned that the regulated community was having difficulty related to the required electronic reporting mechanism. Individual entities provided information about technical issues and reporting difficulties, but the collective significance of these issues was not apparent until the Agency completed review of a letter from the American Chemistry Council dated August 30, 2016 (Ref. 1).

This action does not alter the substantive CDR reporting requirements in any way. The Agency also believes the one-time extension will not result in a significant delay in the processing and availability of CDR information to potential users. Further, this action is consistent with the public interest because it is designed to facilitate compliance with the CDR rule and to ensure that the 2016 collection includes accurate data on chemical manufacturing, processing, and use in the United States. Finally, any impact on the regulated community is expected to be beneficial given that the one-time extension provides additional time to submit accurate CDR reports to EPA.

Similarly, under APA section 553(d), 5 U.S.C. 553(d), the Agency may make a rule immediately effective “for good cause found and published with the rule.” For the reasons discussed in this unit, EPA believes that there is “good cause” to make this amendment effective upon publication in the **Federal Register**.

### **III. 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. American Chemistry Council. "Request for an Extension to the TSCA Chemical Data Reporting (CDR) 2016 Submission Period [Letter]." August 30, 2016.

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

##### *A. Executive Order 12866 and Executive Order 13563*

This action is classified as a final rule because it makes an amendment to the Code of Federal Regulations (CFR). The amendment to the CFR is necessary to allow for a one-time extension to the 2016 CDR reporting period. This action does not impose any new requirements or amend substantive requirements. This action is not a "significant regulatory action" under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) and Executive Order 13563 entitled "Improving Regulation and Regulatory Review" (76 FR 3821, January 21, 2011).

##### *B. Paperwork Reduction Act (PRA)*

This final rule does not contain any new or revised information collections subject to OMB approval under the PRA, 44 U.S.C. 3501 et seq.

##### *C. Regulatory Flexibility Act (RFA)*

This final rule is not subject to the RFA, 5 U.S.C. 601 et seq. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements under

the APA because the Agency has invoked the APA “good cause” exemption.

*D. Unfunded Mandates Reform Act (UMRA) and Executive Orders 13132 and 13175*

This action will not have substantial direct effects on State or tribal governments, on the relationship between the Federal Government and States or Indian tribes, or on the distribution of power and responsibilities between the Federal Government and States or Indian tribes. As a result, no action is required under Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), or under Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). Nor does it impose any enforceable duty or contain any unfunded mandate as described under Title II of UMRA, 2 U.S.C. 1531-1538.

*E. Executive Orders 13045, 13211, and 12898*

This action is not a “significant regulatory action” as defined by Executive Order 12866. As a result, this action is not subject to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) and Executive Order 13211 entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). In addition, this action also does not require any special considerations under Executive Order 12898 entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

*F. National Technology Transfer and Advancement Act (NTTAA)*

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the NTTAA, 15 U.S.C. 272 note.

**V. Congressional Review Act (CRA)**

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States.

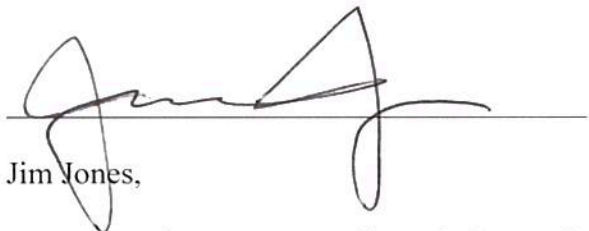
This action is not a “major rule” as defined by 5 U.S.C. 804(2).



**List of Subjects in 40 CFR Part 711**

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: 9/16/16



A handwritten signature in black ink, appearing to read 'Jim Jones', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke.

Jim 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 § 711.20, revise the third sentence to read as follows.

**§ 711.20 When to report.**

\* \* \* The 2016 CDR submission period is from June 1, 2016 to October 31, 2016.

Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2020.\* \* \*