

TSCA Chemical Data Reporting Fact Sheet: Articles

This fact sheet provides guidance on classifying articles under the Toxic Substances Control Act (TSCA) and determining the applicability of EPA's articles exclusion policy 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).

1. What is an article?

For the purpose of CDR reporting, an "article" is defined at 40 CFR 704.3 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."

2. Are articles exempt from CDR reporting?

The import of a chemical substance "as part of an article" is not subject to CDR reporting. See 40 CFR 711.10(b). Chemical substances are considered to be imported "as part of an article" if the substance or mixture is not intended to be removed from that article and has no end use or commercial purposes separate from the article of which it is a part. Chemical substances which are imported within articles used for purposes or transportation or containment, such as in drums, barrels, or other containers, are considered to be chemical substances imported "in bulk," and are therefore not eligible for this exemption.

With respect to a chemical substance that is domestically produced or imported in bulk, there is no exemption from CDR requirements based on a subsequent commercial purpose to incorporate the substance into an article.

Persons who neither domestically produce nor import a chemical substance, but merely process it into an article, need not submit a CDR report for that substance. This is because of a

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broader principle of CDR reporting: only the manufacturers (including importers) of a chemical substance are subject to CDR reporting obligations. See 40 CFR 711.8.

3. What should be considered when identifying whether I am importing an article?

Consider whether the imported item meets all the requirements of the regulatory definition of “article” at 40 CFR 704.3:

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

At the point of import, an imported article must have a specific shape or design suitable for a particular end use application, and this shape or design must be maintained as an essential feature in the finished product. An imported article may undergo further processing subsequent to import, so long as the essential feature of the finished product is maintained. Such processes include rolling or drawing thinner, cutting, printing, laminating, drilling, welding two or more articles together, polishing, buffing, or thermoforming.

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

An imported article must have an end-use function dependent in whole or in part upon a shape or design that was present at the point of import. 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.

Thus, plastic or metallic blocks or sheets imported and then processed in such a way that they entirely lose the shape they had at the point of import (e.g., by being melted down, molded, extruded, or further reacted) would not qualify as articles at the point of importation. Conversely, if plastic or metallic sheeting is imported with a specific thickness, it can be cut to a different length or width and still be considered an imported article, so long as this specific thickness is necessary for a certain application and this thickness is maintained in the processing to make the final product.

If the end-use function of an item involves a phase change, then the item does not have end use function(s) dependent in whole or in part upon its shape or design during end use. Thus, if an item is imported as a solid with a specified shape, but the item is converted into a liquid or gas to serve the intended function during end use, then the item would not be considered an article. This is the case for items such as soldering wire and welding rods or metal shapes that are melted and cast into new shapes. In addition, if an imported non-particulate solid is

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converted into particles to serve the intended function during end use, then the item does not have end use function(s) dependent in whole or in part upon its shape or design during end use.

Finally, imported items that are in a particular 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. Presumably, the item is intended to be significantly altered from its shape upon shipping to produce a specific item with a defined purpose (e.g. melting and casting metal ingots into finished products).

- c. 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 may still be articles if these changes have no commercial purpose separate from the commercial purpose of the article (e.g., production of chemical substances in the end use of photographic films, batteries, matches, and safety flares). However, if the products of the chemical change in the imported item have their own commercial purposes, separate from that of the imported item (e.g., they are themselves intermediates in the manufacture of some other chemical substance or they are separately distributed in commerce), then the imported item is not an article. See 40 CFR 710.4(d)(5).

- d. Is the imported item a fluid or particle?*

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 fluids and/or particles does not have an intrinsically defined shape and, therefore, cannot meet the other elements of the definition of an article.

4. Examples of 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.

These items are considered articles:

- (1) *Transformers (including contained transformer fluid); cigarette lighters (including contained lighter fluid), automobiles (including contained crankcase oil), dessicant packets (including the contained silica gel beads).* The chemical substances or mixtures

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contained in these articles are not intended to be removed from that article and have no intended end use or commercial purpose separate from the article. While the substances contained in the articles would not themselves be articles if they were separately imported in bulk, they are considered part of the overall imported article in these instances.

- (2) *Metal or plastic sheets, wire, coated fabric, rolled carpet, and sheets of plywood.* These items are articles if they are manufactured (or imported) in a specific shape or design for a particular end use application, and this design is maintained as an essential feature in the finished product. These items will still retain their “article” status even if subsequent to manufacture (or import) they are rolled or drawn thinner, cut, printed, laminated, drilled, welded together, polished, buffed, or thermoformed, as long as they meet the above criteria. Note, for coated fabrics and other similar products that are treated or coated, EPA recognizes that the coating may be removed or released throughout the life of the product (e.g. washing, handling). The substance still retains its article status in these situations as the removal and release is not “intended” and serves no end use function.
- (3) *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 sheet can in this case still be considered an article.
- (4) *Molded plastic parts, machined metal parts, finished pipes, and other finished construction materials.* These items are part of an article manufactured (or imported) to a specific shape or design for end use.
- (5) *Batteries, radioactive materials in detectors.* These items undergo changes of composition which have no commercial purpose separate from that of the article.

These items are not considered articles:

- (1) *Ink in pens, caulk in canisters, substances or mixtures in aerosol cans, lighter fluid in refill cans.* While these substances or mixtures are contained within an article at the point of import, they are intended to be removed from that article and have an end use or commercial purpose separate from the containing article.
- (2) *Metal ingots, billets, blooms, sheets or other bulk metal raw material.* The shape of these items does not serve a function with respect to the item’s end use (i.e., it is imported in a particular shape for the sake of shipping convenience). They are typically processed in a way that results in a significant change from the original shape upon import. Blocks of plastic or other bulk plastic shapes that are imported and converted

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into finished plastic articles through extrusion, injection molding, or other converting processes are also not considered articles.

- (3) *Articles that have been previously disposed of and are now being imported for reclamation of specific chemical substance or for conversion into a new form, such as scrap metal, electronics, metal fixtures.* These items do not have end use function dependent in whole or in part upon their shape or design during end use.
- (4) *Imported paints, inks, powder coatings, adhesives, and other chemical substances or mixtures that are in fluid or particulate form.* Items which consist of fluids and/or particles are not articles.
- (5) Imported solid articles which contain chemical substances or mixtures that change to a fluid or particle form or are intended to be released during end use of the article are not eligible for the article exemption. Examples include, but are not limited to, crayons, grease pens, soldering wires, and welding rods.