

§ 704.5 Exemptions.

A person who is subject to reporting requirements for a substance identified in this part is exempt from those requirements to the extent that the person and that person's use of the substance is described in this section. This section is superseded by any TSCA section 8(a) rule that adds to, removes, or revises the exemptions described in this section.

(a) *Articles.* A person who imports, processes, or proposes to import or process a substance identified in this part solely as part of an article is exempt from the reporting requirements of this part with regard to that substance.

(b) *Byproducts.* A person who manufactures, imports, or proposes to manufacture or import a substance identified in this part solely as a byproduct is exempt from the reporting requirements of this part.

(c) *Impurities.* A person who manufactures, imports, processes, or proposes to manufacture, import, or process a substance identified in this part solely as an impurity is exempt from the reporting requirements of this part.

(d) *Non-isolated intermediate.* A person who manufactures or proposes to manufacture a substance identified in this part solely as a non-isolated intermediate is exempt from the reporting requirements of this part.

(e) *Research and development.* A person who manufactures, imports, processes, or proposes to manufacture, import, or process a substance identified in this part only in small quantities solely for research and development is exempt from the reporting requirements of this part.

(f) *Small manufacturers and importers.* Small manufacturers and importers are exempt from the reporting requirements of this part.

[53 FR 51717, Dec. 22, 1988]

§ 704.7 Confidential business information claims.

(a) Any person submitting a notice under this rule may assert a business confidentiality claim covering all or any part of the notice. Any information covered by a claim will be disclosed by EPA only to the extent and

by means of the procedures set forth in part 2 of this title.

(b) If no claim accompanies the notice at the time it is submitted to EPA, the notice will be placed in an open file available to the public without further notice to the respondent.

(c) To assert a claim of confidentiality for data contained in a notice, the respondent must submit two copies of the notice.

(1) One copy of the notice must be complete. In that copy the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential", "proprietary", or "trade secret".

(2) If some data in the notice are claimed as confidential, the respondent must submit a second copy. The second copy must be complete except that all information claimed as confidential in the first copy must be deleted.

(3) The first copy of the notice will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy of the notice when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent has 15 days from the date of receipt of notification to submit the required second copy. Failure to submit the second copy will cause EPA to place the first copy in the public file.

(d) In submitting a claim of confidentiality, a person attests to the truth of the following four statements concerning all information which is claimed confidential:

(1) My company has taken measures to protect the confidentiality of the information, and it intends to continue to take such measures.

(2) The information is not, and has not been, reasonably obtainable without our consent by other persons (other than government bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).