

1998 TSCA

Your station EPA and FDA Ops Guides will override these listings

2501.00.00.00 - 2513.20.90.00 Salt, sulfur, earths and stone
 2517.10.00.15 - 2530.90.00.50 Earths, stone, lime and cement
 2601.11.00.30 - 2621.00.00.00 Ores, slag, and ash
 2701.11.00.00 - 2716.00.00.00 Mineral fuels, oils, and products
 2801.10.00.00 - 2843.90.00.00 Inorganic chemicals, compounds of metal
 2845.10.00.00 - 2851.00.00.90 Isotopes, compounds, 'ides', other inorganic
 2901.10.10.00 - 2942.00.50.00 Organic chemicals
 3101.00.00.00 - 3105.90.00.50 Fertilizers
 3201.10.00.00 - 3215.90.50.00 Tanning, dyeing extracts, paint, inks
 3301.11.00.00 - 3301.90.50.00 Essential oils --(non FDA use only)--
 3401.11.10.00 - 3407.00.40.00 Soap, waxes, active agents, pastes
 3501.10.10.00 - 3507.90.70.00 Starches, glues, enzymes
 3801.10.10.00 - 3807.00.00.00 Graphite, azanti, lyes, gums, rosin
 3809.10.00.00 - 3823.70.60.00 Dyes, welding pastes, cements, acids
 3901.10.00.10 - 3916.90.50.00 Plastics in raw natural unmanufactured state
 4001.10.00.00 - 4004.00.00.00 Rubber in raw natural unmanufactured state
 4401.10.00.00 - 4401.30.40.90 Wood and wood charcoal
 4501.10.00.00 - 4501.90.40.00 Cork in raw natural unmanufactured state
 4701.00.00.00 - 4707.90.40.00 Pulp or wood or paper
 7001.00.10.00 - 7001.00.50.00 Raw glass near silica form
 7105.10.00.11 - 7112.90.00.00 Precious metals in any form
 7201.10.00.00 - 7207.20.00.90 Iron in raw natural unmanufactured state
 7218.10.00.00 - 7218.99.00.90 Stainless steel in raw natural unmanufacture
 7224.10.00.05 - 7224.90.00.75 Nickel alloy steel in raw natural unmanufact
 7401.10.00.20 - 7407.29.50.00 Copper in raw natural unmanufactured state
 7501.10.00.00 - 7504.00.00.50 Nickel in raw natural unmanufactured state
 7601.10.30.00 - 7604.29.50.60 Aluminum in raw natural unmanufactured state
 7801.10.00.00 - 7804.20.00.00 Lead in raw natural unmanufactured state
 7901.11.00.00 - 7903.90.60.00 Zinc in raw natural unmanufactured state
 8001.10.00.00 - 8005.00.20.00 Tin waste and scrap or foil unfinished
 8101.10.00.00 - 8101.91.50.00 Tungsten in raw natural unmanufactured state
 8102.10.00.00 - 8102.91.50.00 Molybdenum in raw natural unmanufactured sta
 8103.10.30.00 - 8113.00.00.00 Scrap and powders of exotic metal

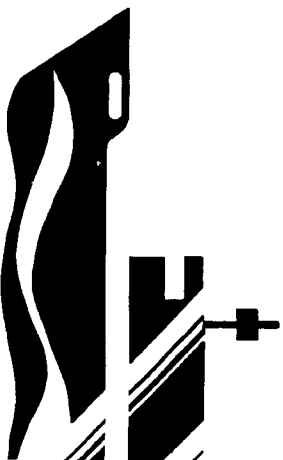
***Chemical substances/mixtures/products, etc. even though on this list
 do not require TSCA certification if used as food additive, drug,



United States
Environmental Protection
Agency
Region 10
1200 Sixth Avenue
Seattle WA 98101-1128

Importing Chemicals

What You Need to Know
About TSCA
(the Federal Toxic
Substances Control Act)



U.S. Environmental Protection Agency
Region 10
1200 Sixth Avenue (WCM-128)
Seattle, Washington 98101-1128

Specific language you must use for a positive certification:

"I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order under TSCA."

Specific language you must use for a negative certification:

"I certify that all chemicals in this shipment are not subject to TSCA."

No other language may be substituted. Both positive and negative statements may be preprinted, typed, or stamped on the invoice used in connection with the entry and entry summary procedures. The certification statements may be signed using an authorized facsimile signature.

Not complying with TSCA regulations can result in detained shipments, denied entry, and substantial penalties.

This brochure briefly summarizes the requirements for importing chemicals under TSCA 15 U.S.C. 2601 et seq. A more detailed description of your responsibilities as a chemical importer under TSCA are set forth in 40 CFR Part 707.

For more information call the TSCA Hotline at
(202) 554-1404

**Region 10 (Alaska, Idaho, Oregon, and
Washington) Contacts:**

Renée Dagseth, Core TSCA Coordinator
(206) 553-1889, or toll-free at 1-800-424-4372
Debra Packard, Community Involvement Coordinator
(206) 553-0247, or toll-free at 1-800-424-4372

To ensure effective communication with everyone,
additional services can be made by calling EPA's
toll-free number 1-800-424-4372

Web Surfing for EPA Region 10

Check out our homepage at:
<http://www.epa.gov/r10earth>

EPA/TSCA

The Environmental Protection Agency (EPA) regulates chemicals, pesticides, fertilizers and vehicle emissions. In 1975 they enacted the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The EPA has jurisdiction over all pesticides and their devices. Anything imported covered in this act requires an EPA-3540 prior to being imported. The Toxic Substance Control Act (TSCA) was enacted in 1976 and falls under the EPA. All toxic substances covered in this act require TSCA certification.

The reason these acts were put into use was to insure that environmental pollutants, ozone depleting chemicals and chemicals that can harm both humans and animals are regulated.

WHAT APPLIES TO TSCA*

TSCA applies to chemical substances and mixtures which are broadly defined in section 3 of TSCA. EPA, together with other Federal agencies, has issued a policy statement on biotechnology in which EPA clarified that microorganisms are “chemical substances” under TSCA. Therefore, the term “chemical substances” and “chemicals” include microorganisms.

WHAT IS EXCLUDED FROM POSITIVE CERTIFICATION

Certain chemicals are excluded from the definition of “chemical substances” based on their use. These include, but are not limited to, foods, drugs, cosmetics and active ingredients in pesticides. These exempt chemicals, however, still require certification that they are **NOT** subject to TSCA, except when exempt from a negative certification below. Examples of exempted chemicals for which the importer could sign the *negative* certification statement fall under the Importer Responsibilities.

*NOTE: EPA and TSCA also apply to U.S. goods returned.

NEGATIVE CERTIFICATION

Any pesticide when imported for use as a pesticide*

- ◆ Any food, food additive, drug, cosmetic, or device when imported for use as a food, food additive, drug, cosmetic, or device. The term "food" includes poultry and poultry products, meat and meat food products and eggs and egg products.
- ◆ Source material, special nuclear material, or byproduct material.
- ◆ Firearms and ammunition.

*Note: Pesticides and their devices REQUIRE an EPA Form 3540.

IMPORTERS RESPONSIBILITIES:

Under Customs rule, the **importer** of a chemical shipment must certify (except as aforementioned) at the port of entry for shipments entering commerce in the U. S. that either:

- 1) The shipment is subject to TSCA and complies with all applicable rules and orders thereunder, or
- 2) The shipment is not subject to TSCA.

An importer can accomplish the certification and discharge his obligations related to import by signing, at the time of Customs clearance, one of the following statements (typed, preprinted on the invoice or otherwise included in the entry documents, but signed by the **importer**).

POSITIVE CERTIFICATION:

"I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order under TSCA."

NEGATIVE CERTIFICATION:

"I certify that all chemicals in this shipment are not subject to TSCA."

MOST COMMONLY SEEN ITEMS REQUIRING POSITIVE CERTIFICATION: (NOTE: ANYTHING THAT DISCHARGES CHEMICALS REQUIRES A POSITIVE STATEMENT).

Aluminum oxide	Natural Gas
Bauxite	Oxalic acid
Bismuth	Peat moss-except as peat pots- (which are articles)
Brake Fluid	Pitch
Coal	Potassium sorbates-(unless for use as a food additive)
Crude oil	Printer Ribbon
Crushed stone	Sorbic acid, unless for use as food additive
Gasoline	Tetraethyl lead
Ink	Toner Cartridges
Ink Pens	Typewriter/Computer
Liquified petroleum gas	Water
Lysine-(unless imported for use as an additive)	
ribbons	

MOST FREQUENTLY ASKED QUESTIONS

What requires a negative certification?

A *negative* certification is required for **chemicals not subject to TSCA** jurisdiction, such as: pesticides (unless accompanied by EPA-3540), any food, food additive, drug, drug intermediate, cosmetic, cosmetic intermediate, or device subject to FDA (unless accompanied by FD701), nuclear source materials, special nuclear materials or nuclear by-products and firearms and ammunition. No certification is required for tobacco or tobacco products.

How is a "chemical substance" defined under TSCA?

- ◆ any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature; and
- ◆ any element or uncombined radical (an element or a compound).

Chemical substance does *not* include:

- ◆ any mixture;
- ◆ any pesticide when manufactured, processed or distributed for use as a pesticide;
- ◆ tobacco or any tobacco products;
- ◆ any source material, special nuclear material or by-product material;
- ◆ any article (i.e., firearms and ammunition) the sale of which is subject to tax imposed by section 4181 of the Internal Revenue Code; and

- ◆ any food, food additive, drug, cosmetic, or device, when manufactured, processed, or distributed in commerce for use as a food, etc.

How is “article” defined?

(1) “Article”, per Customs rule section 12.120(a)(1) is a manufactured item which:

- ◆ is formed to a specific shape, or design during manufacture;
- ◆ has end use functions dependent in whole or in part upon its shape or design during end use; and
- ◆ Has either no change of chemical composition during end use or only those changes of composition which have no commercial purpose separate from that of the article; except that fluids and particles are not considered articles regardless of shape or design.

(2) The allowable changes of composition in section 12.120(a)(1) are those that result from chemical reaction that occurs upon the end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares in which the chemical substance manufactured upon end use of the article is not itself manufactured for distribution in commerce or for use as an intermediate.

Do articles require certification?

- ◆ No.
- ◆ Metallurgical intermediates do require certification if for shipping convenience the shape of the item has no function in end use. Thus, items such as metal ingots, billets, and blooms are considered chemical substances and require TSCA certification.

- ◆ Items imported as articles if they are manufactured in a specific shape or design for end use application and the design is maintained as an essential feature in the finished product would not be subject to TSCA (i.e. metal or plastic sheets, wire, coated fabric), unless they contain a chemical substance or mixture for which certification is required by a specific rule of TSCA.

How is a mixture defined under TSCA?

Any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or part, as a result of a chemical reaction if none of the chemical substance comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined. After identifying each chemical substance, it is necessary to determine whether all the individual substance are on the Inventory and are in compliance with specific rules under sections 5,6 and 7 of TSCA before signing the positive certification.

Can a "blanket" certificate be used to cover several shipments of the same chemical made over a one-year period?

Yes, if a blanket certification has been authorized by the appropriate District Director of U.S. Customs and a statement to that effect is included on the commercial invoice or entry document.

To obtain a "blanket" certificate it must be made on the letterhead of the certifying firm and signed by a authorized person. All blanket certifications shall initially be annual on a calendar-year basis subject to renewal. Once accepted, a blanket certification may be revoked for cause by Customs at any time. (See format examples) These need to be filed at each district where importations are anticipated, since their acceptance is at the option of each Customs District Director.

Does the importer need to know the identity of an imported chemical?

The importer may rely on the warranty or certification from the foreign supplier in making his TSCA certification. The importer is liable if the certification is not correct. The liability can be reduced if the importer has verifiable evidence that he made a good faith effort to comply.

Who must make the TSCA certification to U.S. Customs?

The importer of record or a Customshouse broker with power of attorney acting as the importer's agent is responsible for TSCA certification. The shipper's TSCA certification is not acceptable.

When is a foreign company considered the importer of record?

Yes, if there is a resident who is authorized to make entry in the state in which it was imported. Such resident must file a bond having a resident corporation surety to secure payment of any increased or additional duties that may be found due.

Do TSCA regulated imports given as gifts require TSCA?

Yes, a positive certification is required.

What about laboratory testing, R&D, test marketing samples requirements?

All TSCA requirements still apply even if for research and development (R&D), lab tests or test marketing samples.

What is an EPA-3540 form and when is it used?

This form is required when importing pesticides and other substances and require this form, an original must be completed by the **consignee and EPA** prior to the entry submission to Customs. It is used for all pesticides and their devices as well as, disinfectants, fungicides, herbicides, sanitizers, or anything listed in the Federal Insecticide, Fungicide and Rodenticide Act (for more information you can call EPA, Linda Bunte at 202-260-1105).

What is an EPA-3520-1 form and when is it required?

This form is used for motor vehicles and heavy duty engines subject to EPA requirements and requires that this EPA form be completed by the importer prior to ABI entry filing and be retained by him on file in accordance with Customs record keeping requirements.

PROCEDURES

When receiving import documentation regarding the possible importation of chemical substances, metallurgical intermediates and micro-organisms, follow these steps to determine the appropriate action to be taken: (*micro-organism examples include bacteria, fungi, molds such as actinomyces, but excludes viruses*).

- 1) Classify the file by the description given, referencing the description in the index of the HTS.
- 2) If commodities are regulated by another government agency (FDA*, ATF, USDA, F&W, etc.) TSCA does not apply and the TSCA statement is not required (except brake fluid-requires a TSCA positive certification and HS-7)
- 3) After classifying, check the harmonized number (s) used against the list of HSUS numbers provided in this procedure (use as a handout) to determine what government agency is required.
- 4) If the harmonized number does not appear on the list process this shipment.
- 5) If the HT number is on the list, determine if the shipment is subject to TSCA or EPA-3540, whichever is applicable (is it a chemical or pesticide, does it regulate plant growth, including fertilizers?).
- 6) If EPA applies, the ORIGINAL EPA-3540 is required and must be completed by the consignee and the EPA *prior* to entry submission to Customs. **ALL SHIPMENTS THAT REQUIRE THE EPA-3540 SHOULD BE CAGED.**

6a) Examples of EPA regulated substances and devices:

- ◆ Disinfectants
- ◆ Electronic Animal Repelling Devices
- ◆ Electronic Insect Killing or Repelling Devices
- ◆ Fly Paper
- ◆ Fungicides
- ◆ Herbicides
- ◆ Insecticides
- ◆ Mosquito Coils
- ◆ Pesticides
- ◆ Rodent Poisons
- ◆ Sanitizers
- ◆ Weed Killers
- ◆ Wood Preservatives

7) If the TSCA statement is needed, the original form, fax copy or photocopy are acceptable. The positive or negative TSCA statement may be listed directly on the commercial invoice as long as it has been signed by the *importer* (the shipper is **NOT** an acceptable signatory). For format see "Importer's Responsibilities" in the beginning of this module. It must contain the company name and address; the importer's name (clearly printed); the importer's title; the importer's signature. **(THE SIGNATURE MUST MATCH THE PRINTED IMPORTER'S NAME EXACTLY. EXCEPTION: *BAYER AG IS THE ONLY ACCOUNT THAT DOES NOT REQUIRE A SIGNATURE ON THE TSCA STATEMENT-THEY HAVE A BLANKET CERTIFICATE ON FILE*).**

8) If the statement is incomplete, the shipment is to be caged. A statement cannot be amended. If it is incomplete, new certification has to be provided.

9) If the statement is missing a signature, the shipment must be caged **(FRITZ COMPANY IS NOT PERMITTED TO SIGN THE STATEMENT ON BEHALF OF AN IMPORTER).**

10) If the declaration contains incorrect wording or language as outlined in this module, the shipment is to be caged (see #8 above).

11) Shipments that need a certificate and are being imported “solely for research and development (R&D) purposes” all require a Positive or Negative Declaration, and, possibly, an EPA-3540. R&D does not exempt the shipment from TSCA requirements.

12) Chemical substances as determined by the EPA require a Positive Declaration and include all the following:

- ◆ Aluminum Oxide
- ◆ Bauxite
- ◆ Bismuth
- ◆ Coal
- ◆ Crude Oil
- ◆ Crushed Stone
- ◆ Dirt
- ◆ Earth
- ◆ Fertilizers (plant growth regulators)
- ◆ Gasoline
- ◆ Ink
- ◆ Ink Pens
- ◆ Leather Hides
- ◆ Liquified Petroleum
- ◆ Lysine (unless used as a food additive)
- ◆ Natural Gas
- ◆ Oxalic Acid
- ◆ Peat Moss (except peat pots which are articles)
- ◆ Pitch
- ◆ Potassium Sorbates (unless used as food additive)
- ◆ **Printer Ribbons**
- ◆ Sand
- ◆ Sorbic Acid (unless used as food additive)
- ◆ Tetraethyl Lead
- ◆ **Toner Cartridges**
- ◆ Water (unless for human consumption)

13) Metallurgical intermediates are considered chemical substances, thus requiring TSCA certification:

- ◆ Billets
- ◆ Blooms
- ◆ Chunks
- ◆ Ingots
- ◆ Metal Bars

MOST COMMONLY SEEN HSUS NBRS THAT REQUIRE EPA-3540

2903.19.6000	2933.69.6020
2903.30.1500	2933.90.14 - 2933.90.22
2903.41.00 - 2903.49.	2934.20.3500
2903.59.1000	2934.90.11 - 2934.90.18
2920.90.1000	3808.10.1000
2924.21.04- 2924.21.16.	3808.20.50 - 3808.20.50
2926.90.21- 2926.90.30	3808.30.05 - 3808.90.95
2930.90.1000	
2930.90.3000	
2931.00.2500	
2932.29.1000	
2932.99.4 -2932.99.20	
2933.19.23	
2933.21 - 2933.39.27	
2933.40.3000	
2933.59.10 - 2933.59.18	

EPA/TSCA TEST

- 1) What type of statement is required for ammunition?
 - a) Positive
 - b) Negative
 - c) None
- 2) Which "article" requires TSCA certification?
 - a) Plastic sheets
 - b) Chemically coated fabric
 - c) Metallurgical intermediates in ingots
 - d) None of the above
- 3) A blanket TSCA certificate may used.
 - a) True
 - b) False
- 4) A microorganism is considered a chemical substance.
 - a) True
 - b) False
- 5) Who is required to make TSCA certification to Customs?
 - a) Exporter
 - b) Shipper
 - c) Manufacturer
 - d) Importer

6) Which of the following require a negative TSCA certification?

- a) Pesticides
- b) Makeup
- c) Firearms
- d) All of the above
- e) None of the above

7) Which government agency regulates food dye?

- a) DOT
- b) FDA
- c) TSCA
- d) All of the above
- e) None of the above

8) Pesticides require which of the following?

- a) A negative statement
- b) EPA-3540
- c) Fish & Wildlife

9) Metal ingots require TSCA certification.

- a) True
- b) False

10) An "article" is a manufactured item if it:

- a) Has no change in chemical composition during end use
- b) Is formed into a specific design during manufacture
- c) All of the above
- d) None of the above

11) A motor vehicle engine is subject to EPA requirements.

- a) True
- b) False

12) When is a foreign company considered an importer or record?

- a) When they are the shipper
- b) Never
- c) There is a resident that is authorized in the state where entry is made

13) Ink pens require a positive certificate.

- a) True
- b) False

14) Fly paper requires which certificate?

- a) Positive
- b) Negative
- c) None
- d) 3540

15) The importer needs to know the identity of a chemical?

- a) True
- b) False

16) Gifts of articles regulated by TSCA do not require certification.

- a) True
- b) False

- 17) Chemicals that are exempt from a positive certificate do not require anything further.
- a) True
 - b) False
- 18) If an EPA-3540 is required, it may be completed by the consignee within 10 days of entry submission to Customs.
- a) True
 - b) False
- 19) Research and development samples require certification.
- a) True
 - b) False
- 20) Disinfectants require which of the following prior to release?
- a) FDA
 - b) USDA
 - c) TSCA positive statement
 - d) EPA-3540
- 21) Since Fritz company is the importer of record on most shipments they are authorized to sign TSCA certificates.
- a) True
 - b) False
- 22) The TSCA certificate can be listed on the invoice as long as it's signed by the exporter.
- a) True
 - b) False

23) Chemicals imported for laboratory testing only do not require a certificate.

- a) True
- b) False

24) Exempt chemicals do not require any type of certification.

- a) True
- b) False

25) The TSCA certificate may be given at the port of entry only.

- a) True
- b) False

26) Do chemicals that are not subject to TSCA require anything else?

- a) Yes
- b) NO

27) A negative certification is required on tobacco and tobacco products.

- a) True
- b) False

28) FDA overrides any chemical requiring TSCA.

- a) True
- b) False

29) Dirt requires a TSCA certificate.

- a) True**
- b) False**

30) If the declaration contains incorrect wording the shipment should be caged.

- a) True**
- b) False**