

§ 725.110

40 CFR Ch. I (7-1-07 Edition)

(2) If a person contracts with a manufacturer to produce or process a new microorganism and the manufacturer produces or processes the microorganism exclusively for that person, and that person specifies the identity of the microorganism, and controls the total amount produced and the basic technology for the plant process, then that person must submit the MCAN. If it is unclear who must report, EPA should be contacted to determine who must submit the MCAN.

(3) Only manufacturers that are incorporated, licensed, or doing business in the United States may submit a MCAN.

(b) *Importers of new microorganisms.* (1) MCAN submission is required for a person who intends to import into the United States for commercial purposes a new microorganism. Exclusions are described in § 725.110.

(2) When several persons are involved in an import transaction, the MCAN must be submitted by the principal importer. If no one person fits the principal importer definition in a particular transaction, the importer should contact EPA to determine who must submit the MCAN for that transaction.

(3) Except as otherwise provided in paragraph (b)(4) of this section, the provisions of this subpart D apply to each person who submits a MCAN for a new microorganism which such person intends to import for a commercial purpose. In addition, each importer must comply with paragraph (b)(4) of this section.

(4) EPA will hold the principal importer, or the importer that EPA determines must submit the MCAN when there is no principal importer under paragraph (b)(2) of this section, liable for complying with this part, for completing the MCAN, and for the completeness and truthfulness of all information which it submits.

(c) *Manufacturers, importers, or processors of microorganisms for a significant new use.* MCAN submission is required for any person who intends to manufacture, import, or process for commercial purposes a microorganism identified as having one or more significant new uses in subpart M of this part, and who intends either to engage in a des-

ignated significant new use of the microorganism or intends to distribute it in commerce. Persons excluded from reporting on significant new uses of microorganisms and additional procedures for reporting are described in subpart L of this part.

§ 725.110 Persons not subject to this subpart.

Persons are not subject to the requirements of this subpart for the following activities:

(a) Manufacturing, importing, or processing solely for research and development microorganisms that meet the requirements for an exemption under subpart E of this part.

(b) Manufacturing, importing, or processing microorganisms for test marketing activities which have been granted an exemption under subpart F of this part.

(c) Manufacturing or importing new microorganisms under the conditions of a Tier I or Tier II exemption under subpart G of this part.

§ 725.150 Procedural requirements for this subpart.

General requirements for all MCANs under this part are contained in subparts A through C of this part. In addition, the following requirements apply to MCANs submitted under this subpart:

(a) *When to submit a MCAN.* A MCAN must be submitted at least 90 calendar days prior to manufacturing or importing a new microorganism and at least 90 calendar days prior to manufacturing, importing, or processing a microorganism for a significant new use.

(b) *Section 5(b) of the Act.* The submitter must comply with any applicable requirement of section 5(b) of the Act for the submission of test data.

(c) *Contents of a MCAN.* Each person who submits a MCAN under this subpart must provide the information and test data described in §§ 725.155 and 725.160.

(d) *Recordkeeping.* Each person who submits a MCAN under this subpart must comply with the recordkeeping requirements of § 725.65.