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(2) Persons who are manufacturing MBOCA in the United States as of June 2, 1986.

(3) Persons manufacturing MBOCA in the United States on or after June 2, 1986 who propose to change their manner or method of manufacturing the substance from a manner or method of manufacturing that previously was reported under this section.

(c) *Persons not subject to this rule.* The following persons are exempt from the reporting requirements of this section:

(1) Persons who import MBOCA into the customs territory of the United States and do not otherwise manufacture the substance in the United States.

(2) Persons who complied with the requirements of this section prior to June 2, 1986 and received written notification of compliance from EPA.

(d) *What information to report.* Persons who are subject to this rule as described in paragraph (b) of this section must report information to EPA by completing the following parts of the notice form contained in appendix A to part 720 of this chapter: Parts I.A., I.B., I.C.1., I.C.3., and II.A.; also, part III as appropriate. Persons subject to the requirements of this section also must submit a narrative description of any processing and packaging of MBOCA that occurs at the manufacturing plant site, including the number of workers potentially exposed to MBOCA during on-site processing and packaging of MBOCA and a description of any personal protective equipment and/or engineering controls that would be used to prevent release of and exposure to MBOCA during on-site processing and packaging. Persons subject to the requirements of this section are not required to submit information on processing or use of MBOCA away from the manufacturing plant site. Respondents to this rule shall report all information that is known to or reasonably ascertainable by the person reporting.

(e) *When to report.* (1) Persons specified in paragraph (b)(1) of this section must report by July 2, 1986 or within 30 days after making a firm management decision to commit financial resources for the manufacture of MBOCA, whichever is later in time.

(2) Persons specified in paragraph (b)(2) of this section must report by July 2, 1986.

(3) Persons specified in paragraph (b)(3) of this section must report within 30 days of making a firm management decision to commit financial resources to change their manner or method of manufacturing the substance from a manner or method of manufacturing that previously was reported under this section.

[51 FR 13223, Apr. 18, 1986, as amended at 52 FR 20083, May 29, 1987; 58 FR 34204, June 23, 1993]

PART 707—CHEMICAL IMPORTS AND EXPORTS

Subpart A [Reserved]

Subpart B—General Import Requirements and Restrictions

Sec.
707.20 Chemical substances import policy.

Subpart C [Reserved]

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707.75 Confidentiality.

AUTHORITY: 15 U.S.C. 2611(b) and 2612.

SOURCE: 45 FR 82850, Dec. 16, 1980, unless otherwise noted.

Subpart A [Reserved]

Subpart B—General Import Requirements and Restrictions

§ 707.20 Chemical substances import policy.

(a) *Scope.* (1) This statement addresses the policy of the Environmental Protection Agency (EPA) on importation of chemical substances, mixtures, and articles under section 13 of the Toxic Substances Control Act (TSCA; 15 U.S.C. 2601 *et seq.*). In particular, it

addresses aspects of the regulation promulgated by the United States Customs Service (Customs), Department of the Treasury (19 CFR 12.118 through 12.127, and 127.28 [amended]) to implement section 13 of TSCA, 15 U.S.C. 2612. Section 13 requires the Secretary of the Treasury to refuse entry into the Customs territory of the United States of a chemical substance, mixture, or article if it does not comply with rules in effect under TSCA, or if it is offered for entry in violation of TSCA or rules or orders under TSCA.

(2) In addition to this statement of policy, EPA will continue, as necessary, to address problems associated with imports in rulemaking and other actions under individual sections of TSCA, i.e., sections 4, 5, 6, 7, 8, and 12. Sections 5, 6, and 7 apply directly to imports subject to the section 13 requirements. Section 12 may apply to export of a shipment that is refused entry under section 13. Importers may have obligations under sections 4 and 8; section 4 and 8 requirements for importers would not apply to individual chemical shipments and thus are not included under section 13 requirements. Interested persons should refer to the records of these individual rulemaking actions for specific information and guidance.

(b) *Objectives*. (1) TSCA is intended to be comprehensive, and assure protection of health and the environment from unreasonable risks associated with chemicals whether the chemicals are imported or produced domestically. This intent is manifested by the inclusion of importation in the Act's definition of the term ''manufacture'': ''[M]anufacture means to import * * *, produce, or manufacture'' (15 U.S.C. 2602(7)). Thus, importers are responsible for insuring that chemical importation complies with TSCA just as domestic manufacturers are responsible for insuring that chemical manufacture complies with TSCA.

(2)(i) The section 13 rule requires importers to sign the following statement for each import of chemical substances subject to TSCA: ''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.'' The certification will document that, in accordance with TSCA, the importer has taken the necessary steps to insure compliance.

(ii) The section 13 rule requires importers of chemicals not subject to TSCA (e.g., pesticides) to certify that compliance with TSCA is not required. Importers must certify this by signing the statement: ''I certify that all chemicals in this shipment are not subject to TSCA.'' This is appropriate when a chemical import is not clearly identified as a pesticide or other chemical not subject to TSCA.

(3) The United States is involved in a major effort toward international harmonization in the control of chemicals. At such time as international agreement is reached on this issue, EPA would be prepared to modify its policy if necessary. EPA believes that its international harmonization efforts in the control of chemicals will protect health and the environment while fulfilling its obligations under the Trade Agreements Act of 1979.

(c) *The section 13 rule*—(1) *General certification*. (i) The rule promulgated under section 13 of TSCA by Customs, in consultation with EPA, implements the requirement of section 13 that chemical substances, mixtures, or articles not in compliance with TSCA, or whose importation is not in compliance with TSCA, shall be denied entry into the customs territory of the United States. The rule requires that importers certify by a statement, on the entry document or invoice, that any shipment of a chemical substance subject to TSCA, imported in bulk or as part of a mixture, complies with TSCA, and that it is not offered for entry in violation of TSCA or any rule or order under TSCA, or that the chemicals imported are not subject to TSCA.

(ii) The certification applies to TSCA sections 5, 6, and 7.

(iii) EPA expects that this certification will be based upon actual knowledge of the importer in most cases. However, EPA realizes that sometimes importers may not have actual knowledge of the chemical composition of imported mixtures. In these cases, the importer should attempt to discover

the chemical constituents of the shipment by contacting another party to the transaction (e.g., his principal or the foreign manufacturer). This person may be able to identify the components of the mixture, or at least state that the substances comply with TSCA. The greater the effort an importer makes to learn the identities of the imported substances and their compliance with TSCA, the smaller his chance of committing a violation by importing a noncomplying shipment. If a shipment is ultimately determined to have violated TSCA, the good faith efforts of the importer to verify compliance, as evidenced by documents contained in his files, may obviate or mitigate the assessment of a civil penalty under section 16 of TSCA.

(2) *EPA enforcement.* (i) EPA and Customs will monitor chemical imports to determine if shipments and their import comply with the certification requirements and the substantive mandates of TSCA. Customs will refuse entry to any shipment until such time as the certification is properly submitted. Customs will also detain a shipment if there are reasonable grounds to believe that such shipment or its import violates TSCA or regulations or orders thereunder. A violative shipment must either be brought into compliance, exported, destroyed, or voluntarily abandoned within the time periods prescribed in 19 CFR 12.124 of the section 13 rule.

(ii) When EPA determines that a shipment should be detained, EPA will identify the reasons for the detention and the necessary actions for an importer to bring the shipment into compliance with TSCA. If EPA has given this information to Customs before the district director issues the detention notice, the information will become part of the detention notice. The importer should contact one of the following EPA regional offices for guidance as to the proper procedures to correct any deficiencies in the shipment.

REGION I

John F. Kennedy Federal Building, Boston, MA 02203 (617–223–0586)

REGION II

26 Federal Plaza, New York, NY 10278 (201–321–6669)

REGION III

Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106 (215–597–7668)

REGION IV

345 Courtland Street, NE., Atlanta, GA 30365 (404–881–3864)

REGION V

77 West Jackson Boulevard, Chicago, IL 60604 (312–353–2291)

REGION VI

1201 Elm Street, Dallas, TX 75270 (214–767–2734)

REGION VII

324 East 11th Street, Kansas City, MO 64106 (816–374–3036)

REGION VIII

1860 Lincoln Street, Denver, CO 80295 (303–837–3926)

REGION IX

75 Hawthorne Street, San Francisco, CA 94105 (415) 947–4402.

REGION X

1200 Sixth Avenue, Seattle, WA 98101 (206–442–2871)

(iii) If Customs detains or refuses entry of a shipment (other than for failure to make the general certification) and the importer takes measures necessary to bring the shipment into conformity with the requirements of TSCA, EPA officials will reassess the shipment to determine its current compliance status. When a shipment is no longer in violation, EPA will notify the district director and the importer. The district director will then release the shipment. This notice will also serve as a determination to permit entry under 19 CFR 12.123(c) if a shipment is brought into compliance before the 19 CFR 12.123(c) decisionmaking process has been completed. If compliance is achieved after a 19 CFR 12.123(c) determination (adverse to the importer) has been made, the EPA notice to the district director will serve as a reversal of the decision to refuse entry.

(3) *EPA assistance.* Assistance in determining whether a chemical shipment is in compliance with TSCA can be obtained from the Director, Environmental Assistance Division (7408), Office of Pollution Prevention and

Toxics, U.S. Environmental Protection Agency, Room E–543B, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 544–0551.

[48 FR 55464, Dec. 13, 1983, as amended at 60 FR 34463, July 3, 1995; 62 FR 1834, Jan. 14, 1997; 75 FR 69353, Nov. 12, 2010]

Subpart C [Reserved]

Subpart D—Notices of Export Under Section 12(b)

§ 707.60 Applicability and compliance.

(a) Section 12(b) of the Toxic Substances Control Act requires any person who exports or intends to export a chemical substance or mixture to notify the Environmental Protection Agency of such exportation to a particular country if any of the following actions have been taken under the Act with respect to that chemical substance or mixture:

(1) Data are required under section 4 or 5(b),

(2) An order has been issued under section 5,

(3) A rule has been proposed or promulgated under section 5 or 6, or

(4) An action is pending, or relief has been granted under section 5 or 7.

(b) No notice of export will be required for articles, except PCB articles, unless the Agency so requires in the context of individual section 5, 6, or 7 actions.

(c)(1) Except as provided in paragraphs (c)(2) and (3) of this section no notice of export is required for the export of a chemical substance or mixture for which export notification is otherwise required, where such chemical substance or mixture is present in a concentration of less than 1% (by weight or volume).

(2) No notice of export is required for the export of a chemical substance or mixture that is a known or potential human carcinogen where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume). A chemical is considered to be a known or potential human carcinogen, for purposes of TSCA section 12(b) export notification, if that chemical is:

(i) A chemical substance or mixture listed as a ''known to be human carcinogen'' or ''reasonably anticipated to be human carcinogen'' in the Report on Carcinogens (latest edition) issued by the U.S. Department of Health and Human Services, Public Heath Service, National Toxicology Program,

(ii) A chemical substance or mixture is classified as ''carcinogenic to humans'' (Group 1), ''probably carcinogenic to humans'' (Group 2A), or ''probably carcinogenic to humans'' (Group 2B) in the Monographs and Supplements on the Evaluation of Carcinogenic Risks to Humans issued by the World Health Organization International Agency for Research on Cancer (IARC), Lyons, France (latest editions), or

(iii) Alpha-naphthylamine (Chemical Abstract Service Registry Number (CAS No.) 134–32–7) or 4–nitrobiphenyl (CAS No. 92–93–3).

(3) No notice of export is required for the export of polychlorinated biphenyl chemicals (PCBs) (see definition in 40 CFR 761.3), where such chemical substances are present in a concentration of less than or equal to 50 ppm (by weight or volume).

(d) Any person who exports or intends to export PCBs or PCB articles (see definition in 40 CFR 761.3), for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b), except as specified in § 707.60(c)(3). PCBs and PCB articles have the definitions published in 40 CFR 761.3.

(e) Any person who would be prohibited by a TSCA section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under TSCA section 12(b) of such intent to export or exportation.

(f) Failure to comply with TSCA section 12(b) as set forth in this part will be considered a violation of TSCA section 15(3), and will subject the exporter to the penalty, enforcement, and seizure provisions of TSCA sections 16 and 17.

[45 FR 82850, Dec. 16, 1980, as amended at 71 FR 66244, Nov. 14, 2006; 71 FR 68751, Nov. 28, 2006]

§ 707.63 Definitions.

The definitions set forth in the Toxic Substances Control Act, section 3, apply for this part. In addition, the following abbreviations and definitions are provided for purposes of this rule:

(a) *EPA* means the Environmental Protection Agency.

(b) *Exporter* means the person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the chemical substance or mixture to a destination out of the customs territory of the United States.

(c) *Regulated chemical* means any chemical substance or mixture for which export notice is required under § 707.60.

(d) *TSCA* means the Toxic Substances Control Act.

§ 707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters must notify EPA of their export or intended export of each subject chemical substance or mixture for which export notice is required under § 707.60 in accordance with the following:

(1) The notice must be in writing;

(2)(i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must only be for the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b). Under this paragraph, notice of export to a particular country is not required if an exporter previously submitted to EPA a notice of export to that country prior to January 16, 2007.

(3) The notice must be postmarked within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

(b) If the EPA action that prompts the notice is a proposed rule, the requirement to submit export notices to EPA shall begin thirty days after publication of the action in the FEDERAL REGISTER.

(c) Notices shall be marked ''TSCA Section 12(b) Notice'' and sent to EPA by mail or delivered by hand or courier. Send notices by mail to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001 (Attention: TSCA Section 12(b) Notice). Hand delivery of TSCA section 12(b) notices should be made to: OPPT Document Control Office (DCO), EPA East., Rm. 6428, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC (Attention: TSCA Section 12(b) Notice). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation.

[45 FR 82850, Dec. 16, 1980, as amended at 53 FR 12522, Apr. 15, 1988; 58 FR 40242, July 27, 1993; 60 FR 34463, July 3, 1995; 71 FR 33641, June 12, 2006; 71 FR 66244, Nov. 14, 2006]

§ 707.67 Contents of notice.

The notice to EPA shall include:

(a) The name of the regulated chemical as it appears in the section 4, 5, 6, and/or 7 action. If a category is regulated, the name of the individual regulated chemical within that category, as well as the category, must be given. The name shall be that which appears in Volume I of the EPA Chemical Substance Inventory, or its supplements, if the chemical appears there.

(b) The name and address of the exporter.

(c) The country (countries) of import.

(d) The date(s) of export or intended export.

(e) The section (4, 5, 6, and/or 7) of TSCA under which EPA has taken action.

[45 FR 82850, Dec. 16, 1980, as amended at 71 FR 66245, Nov. 14, 2006]

§ 707.70 EPA notice to foreign governments.

(a)(1) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first annual notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(2) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first notification from any exporter for each chemical substance or mixture that is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or for which the submission of data is required under TSCA section 4 or 5(b).

(b) Notices shall:

(1) Identify the regulated chemical.

(2) Summarize the regulatory action taken, or indicate the availability of data under section 4 or 5(b) of TSCA.

(3) Identify an EPA official to contact for further information.

(4) Include a copy of the pertinent FEDERAL REGISTER notice.

(c) Notices shall be sent to the country's ambassador in Washington, DC, or other official designated by the foreign government, and to the United States Department of State.

[45 FR 82850, Dec. 16, 1980, as amended at 58 FR 40242, July 27, 1993; 71 FR 66245, Nov. 14, 2006]

§ 707.72 Termination of reporting requirements.

(a) The reporting requirements of subpart D of this part are terminated for certain specific chemical substances and mixtures as set forth in this paragraph.

(1) When data required under part 766 of this chapter have been submitted to EPA for a specific chemical substance produced by a specific process, and the data show no positive test result as defined in § 766.3 of this chapter, reporting is no longer required by persons who export or intend to export that substance produced by that process.

(2) [Reserved]

(b) [Reserved]

[52 FR 21437, June 5, 1987]

§ 707.75 Confidentiality.

(a) A person may assert a claim of confidentiality for any information which is submitted to EPA in a notice.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA. In the notice, the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as ''confidential business information'', ''proprietary'', or ''trade secret''.

(c) Notwithstanding any claim of confidentiality, information outlined in § 707.70 will be included in the EPA notice to the foreign government. With this exception, EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by, and in accordance with, the procedures set forth in TSCA and part 2 of this chapter.

(d) If a person does not assert a claim of confidentiality for information at the time a notice is submitted to EPA, the Agency may make the information public, including placement in a public file, without further notice to the person.

PART 710—TSCA CHEMICAL INVENTORY REGULATIONS

Subpart A—General Provisions

Sec.
710.1 Scope and compliance.