

## SUBCHAPTER B—CHEMICAL WEAPONS CONVENTION REGULATIONS

### PART 710—GENERAL INFORMATION AND OVERVIEW OF THE CHEMICAL WEAPONS CONVENTION REGULATIONS (CWCR)

Sec.

710.1 Definitions of terms used in the Chemical Weapons Convention Regulations (CWCR).

710.2 Scope of the CWCR.

710.3 Purposes of the Convention and CWCR.

710.4 Overview of scheduled chemicals and examples of affected industries.

710.5 Authority.

710.6 Relationship between the Chemical Weapons Convention Regulations and the Export Administration Regulations.

SUPPLEMENT NO. 1 TO PART 710—STATES PARTIES TO THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

AUTHORITY: 22 U.S.C. 6701 *et seq.*; E.O. 13128, 64 FR 36703.

SOURCE: 64 FR 73764, Dec. 30, 1999, unless otherwise noted.

#### § 710.1 Definitions of terms used in the Chemical Weapons Convention Regulations (CWCR).

The following are definitions of terms used in the CWCR (parts 710 through 722 of this subchapter, unless otherwise noted):

*Act (The)*: Means the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6701 *et seq.*).BIS

*Bureau of Industry and Security (BIS)*. Means the Bureau of Industry and Security of the United States Department of Commerce (formerly the Bureau of Export Administration).

*By-product*. Means any chemical substance or mixture produced without a separate commercial intent during the manufacture, processing, use or disposal of another chemical substance or mixture.

*Chemical Weapon*. Means the following, together or separately:

(1) A toxic chemical and its precursors, except where intended for purposes not prohibited under the Chemical Weapons Convention (CWC), pro-

vided that the type and quantity are consistent with such purposes;

(2) A munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in paragraph (1) of this definition, which would be released as a result of the employment of such munition or device; or

(3) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in paragraph (2) of this definition.

*Chemical Weapons Convention (CWC or Convention)*. Means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, and its annexes opened for signature on January 13, 1993.

*Chemical Weapons Convention Regulations (CWCR)*. Means the regulations contained in 15 CFR parts 710 through 722.

*Consumption*. Consumption of a chemical means its conversion into another chemical via a chemical reaction. Unreacted material must be accounted for as either waste or as recycled starting material.

*Declaration or report form*. Means a multi-purpose form due to BIS regarding activities involving Schedule 1, Schedule 2, Schedule 3, or unscheduled discrete organic chemicals. Declaration forms will be used by facilities that have data declaration obligations under the CWCR and are “declared” facilities whose facility-specific information will be transmitted to the OPCW. Report forms will be used by entities that are “undeclared” facilities or trading companies that have limited reporting requirements for only export and import activities under the CWCR and whose facility-specific information will not be transmitted to the OPCW. Information from declared facilities, undeclared facilities and trading companies will also be used to compile U.S. national aggregate figures on the production, processing, consumption, export and import of specific chemicals.

See also related definitions of declared facility, undeclared facility and report.

*Declared facility or plant site.* Means a facility or plant site required to complete data declarations of activities involving Schedule 1, Schedule 2, Schedule 3, or unscheduled discrete organic chemicals above specified threshold quantities. Only certain declared facilities and plant sites are subject to routine inspections under the CWC. Plant sites that produced either Schedule 2 or Schedule 3 chemicals for CW purposes at any time since January 1, 1946, are also “declared” plant sites. However, such plant sites are not subject to routine inspection if they are not subject to declaration requirements because of past production, processing or consumption of Scheduled or unscheduled discrete organic chemicals above specified threshold quantities.

*Discrete organic chemical.* Means any chemical belonging to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates, identifiable by chemical name, by structural formula, if known, and by Chemical Abstract Service registry number, if assigned.

*Domestic transfer.* Means, with regard to declaration requirements for Schedule 1 and chemicals under the CWC, any movement of any amount of Schedule 1 chemical outside the geographical boundary of a facility in the United States to another destination in the United States, for any purpose. Domestic transfer includes movement between two divisions of one company or a sale from one company to another. Note that any movement to or from a facility outside the United States is considered an export or import for reporting purposes, not a domestic transfer.

*EAR.* Means the Export Administration Regulations (15 CFR parts 730 through 799).

*Explosive.* Means a chemical (or a mixture of chemicals) that is included in Class 1 of the United Nations Organization hazard classification system.

*Facility.* Means any plant site, plant or unit.

*Facility agreement.* Means a written agreement or arrangement between a State Party and the Organization re-

lating to a specific facility subject to on-site verification pursuant to Articles IV, V, and VI of the Convention.

*Host Team.* Means the U.S. Government team that accompanies the inspection team from the Organization for the Prohibition of Chemical Weapons during a CWC inspection for which the regulations in this subchapter apply.

*Host Team Leader.* Means the representative from the Department of Commerce who heads the U.S. Government team that accompanies the Inspection Team during a CWC inspection for which the regulations in this subchapter apply.

*Hydrocarbon.* Means any organic compound that contains only carbon and hydrogen.

*Impurity.* Means a chemical substance unintentionally present with another chemical substance or mixture.

*Inspection Team.* Means the group of inspectors and inspection assistants assigned by the Director-General of the Technical Secretariat to conduct a particular inspection.

*ITAR.* Means the International Traffic in Arms Regulations (22 CFR parts 120 through 130).

*Organization for the Prohibition of Chemical Weapons (OPCW).* Means the international organization, located in The Hague, the Netherlands, that administers the CWC.

*Person.* Means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

*Plant.* Means a relatively self-contained area, structure or building containing one or more units with auxiliary and associated infrastructure, such as:

- (1) Small administrative area;
- (2) Storage/handling areas for feedstock and products;
- (3) Effluent/waste handling/treatment area;
- (4) Control/analytical laboratory;

(5) First aid service/related medical section; and

(6) Records associated with the movement into, around, and from the site, of declared chemicals and their feedstock or product chemicals formed from them, as appropriate.

*Plant site.* Means the local integration of one or more plants, with any intermediate administrative levels, which are under one operational control, and includes common infrastructure, such as:

- (1) Administration and other offices;
- (2) Repair and maintenance shops;
- (3) Medical center;
- (4) Utilities;
- (5) Central analytical laboratory;
- (6) Research and development laboratories;
- (7) Central effluent and waste treatment area; and
- (8) Warehouse storage.

*Precursor.* Means any chemical reactant which takes part, at any stage in the production, by whatever method, of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

*Processing.* Means a physical process such as formulation, extraction and purification in which a chemical is not converted into another chemical.

*Production.* Means the formation of a chemical through chemical reaction.

*Purposes not prohibited by the CWC.* Means the following:

- (1) Any peaceful purpose related to an industrial, agricultural, research, medical or pharmaceutical activity or other activity;
- (2) Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons;
- (3) Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm; or
- (4) Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

*Report.* Means information due to BIS on exports and imports of Schedule 1, Schedule 2 or Schedule 3 chemicals

above applicable thresholds. Such information is included in the national aggregate declaration transmitted to the OPCW. Facility-specific information is *not* included in the national aggregate declaration. Note: This definition does not apply to parts 719 and 720 (see §719.1) of this subchapter.

*Schedules of Chemicals.* Means specific lists of toxic chemicals, groups of chemicals, and precursors contained in the CWC. See Supplements No. 1 to parts 712 through 714 of this subchapter.

*State Party.* Means a country for which the CWC is in force. See Supplement No. 1 to this part.

*Storage.* For purposes of Schedule 1 chemical reporting, means any quantity that is not accounted for under the categories of production, export, import, consumption or domestic transfer.

*Synthesis.* Means production of a chemical from its reactants.

*Technical Secretariat.* Means the organ of the OPCW charged with carrying out administrative and technical support functions for the OPCW, including carrying out the verification measures delineated in the CWC.

*Toxic Chemical.* Means any chemical which, through its chemical action on life processes, can cause death, temporary incapacitation, or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions, or elsewhere. Toxic chemicals that have been identified for the application of verification measures are in schedules contained in Supplements No. 1 to parts 712 through 714 of this subchapter.

*Trading company.* Means any person involved in the export and/or import of scheduled chemicals in amounts greater than specified thresholds, but not in the production, processing or consumption of such chemicals in amounts greater than threshold amounts requiring declaration. If such persons exclusively export or import scheduled chemicals in amounts greater than specified thresholds, they are subject to reporting requirements but are not subject to routine inspections.

## §710.2

*Transfer.* See domestic transfer.

*Undeclared facility or plant site.* Means a facility or plant site that is not subject to declaration requirements because of past or anticipated production, processing or consumption involving scheduled or unscheduled discrete organic chemicals above specified threshold quantities. However, such facilities and plant sites may have a reporting requirement for exports or imports of such chemicals.

*Unit.* Means the combination of those items of equipment, including vessels and vessel set up, necessary for the production, processing or consumption of a chemical.

*United States.* Means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States, and includes all places under the jurisdiction or control of the United States, including any of the places within the provisions of paragraph (41) of section 40102 of Title 49 of the United States Code, any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (1) and (37), respectively, of section 40102 of Title 49 of the United States Code, and any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (section 1903(b) of Title 46 App. of the United States Code).

*United States National Authority (USNA).* Means the Department of State serving as the national focal point for the effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention and implementing the provisions of the Chemical Weapons Convention Implementation Act of 1998 in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of other agencies considered necessary or advisable by the President, or their designees. The Secretary of State is the Director of the USNA.

*Unscheduled chemical.* Means a chemical that is not contained in Schedule 1, Schedule 2, or Schedule 3 (see Sup-

## 15 CFR Ch. VII (1–1–03 Edition)

plements No. 1 to parts 712 through 714 of this subchapter).

*Unscheduled Discrete Organic Chemical (UDOC).* Means any “discrete organic chemical” that is not contained in the Schedules of Chemicals (see Supplements No. 1 to parts 712 through 714 of this subchapter) and subject to the declaration requirements of part 715 of this subchapter. Unscheduled discrete organic chemicals subject to declaration under this subchapter are those produced by synthesis that are isolated for use or sale as a specific end-product.

*You.* The term “you” or “your” means any person (see also definition of “person”). With regard to the declaration and reporting requirements of the CWCR, “you” refers to persons that have an obligation to report certain activities under the provisions of the CWCR.

[64 FR 73764, Dec. 30, 1999, as amended at 67 FR 20631, Apr. 26, 2002]

### §710.2 Scope of the CWCR.

The Chemical Weapons Convention Regulations (parts 710 through 722 of this subchapter), or CWCR, implement certain obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as the CWC or Convention.

(a) *Persons and facilities subject to the CWCR.* (1) The CWCR declaration, reporting, and inspection requirements apply to all persons and facilities located in the United States, except U.S. Government facilities as follows:

(i) Department of Defense facilities; and

(ii) Department of Energy facilities; and

(iii) Facilities of other U.S. Government agencies that notify the USNA of their decision to be excluded from the CWCR.

(2) For purposes of this subchapter, “United States Government facilities” are those facilities owned and operated by a U.S. Government agency (including those operated by contractors to the agency), and those facilities leased to and operated by a U.S. Government agency (including those operated by contractors to the agency). “United States Government facilities” does not

include facilities owned by a U.S. Government agency and leased to a private company or other entity such that the private company or entity may independently decide for what purposes to use the facilities.

(b) *Activities subject to the CWCR.* The CWCR compel data declarations and reports from facilities subject to the CWCR (parts 710 through 722 of this subchapter) on activities, including production, processing, consumption, exports and imports, involving chemicals further described in parts 712 through 715 of this subchapter. These regulations do not apply to activities involving inorganic chemicals other than those listed in the Schedules of Chemicals or to other specifically exempted unscheduled discrete organic chemicals. In addition, these regulations set forth procedures for routine inspections of “declared” facilities by teams of international inspectors in part 716 of this subchapter, and set forth clarification procedures and procedures for challenge inspections (see part 717) that could be requested at any facility or location in the United States subject to the CWCR. Finally, the CWCR restrict certain imports of Schedule 1 and 2 chemicals into the United States from non-States Parties and prohibit imports of Schedule 1 chemicals except for research, medical, pharmaceutical, or protective purposes.

### § 710.3 Purposes of the Convention and CWCR.

(a) *Purposes of the Convention.* (1) The Convention imposes upon the United States, as a State Party, certain declaration, inspection, and other obligations. In addition, the United States and other States Parties to the Convention undertake never under any circumstances to:

- (i) Develop, produce, otherwise acquire, stockpile, or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;
- (ii) Use chemical weapons;
- (iii) Engage in any military preparations to use chemical weapons; or
- (iv) Assist, encourage or induce, in any way, anyone to engage in any activity prohibited by the Convention.

(2) One objective of the Convention is to assure States Parties that lawful activities of chemical producers and users are not converted to unlawful activities related to chemical weapons. To achieve this objective and to give States Parties a mechanism to verify compliance, the Convention requires the United States and all other States Parties to submit declarations concerning chemical production, consumption, processing and other activities, and to permit international inspections within their borders.

(b) *Purposes of the Chemical Weapons Convention Regulations.* To fulfill the United States’ obligations under the Convention, the CWCR (parts 710 through 722 of this subchapter) prohibit certain activities, and compel the submission of information from all facilities in the United States, except for Department of Defense and Department of Energy facilities and facilities of other U.S. Government agencies that notify the USNA of their decision to be excluded from the CWCR on activities, including exports and imports of scheduled chemicals and certain information regarding unscheduled discrete organic chemicals as described in parts 712 through 715 of this subchapter. U.S. Government facilities are those owned by or leased to the U.S. Government, including facilities that are contractor-operated. The CWCR also require access for on-site inspections and monitoring by the OPCW, as described in parts 716 and 717 of this subchapter.

### § 710.4 Overview of scheduled chemicals and examples of affected industries.

The following provides examples of the types of industries that may be affected by the CWCR (parts 710 through 722 of this subchapter). These examples are not exhaustive, and you should refer to parts 712 through 715 of this subchapter to determine your obligations.

(a) Schedule 1 chemicals are listed in Supplement No. 1 to part 712 of this subchapter. Schedule 1 chemicals have little or no use in industrial and agricultural industries, but may have limited use for research, pharmaceutical,

## §710.5

medical, public health, or protective purposes.

(b) Schedule 2 chemicals are listed in Supplement No. 1 to part 713 of this subchapter. Although Schedule 2 chemicals may be useful in the production of chemical weapons, they also have legitimate uses in areas such as:

(1) Flame retardant additives and research;

(2) Dye and photographic industries (e.g., printing ink, ball point pen fluids, copy mediums, paints, etc.);

(3) Medical and pharmaceutical preparation (e.g., anticholinergics, arsenicals, tranquilizer preparations);

(4) Metal plating preparations;

(5) Epoxy resins; and

(6) Insecticides, herbicides, fungicides, defoliants, and rodenticides.

(c) Schedule 3 chemicals are listed in Supplement No. 1 to part 714 of this subchapter. Although Schedule 3 chemicals may be useful in the production of chemical weapons, they also have legitimate uses in areas such as:

(1) The production of:

(i) Resins;

(ii) Plastics;

(iii) Pharmaceuticals;

(iv) Pesticides;

(v) Batteries;

(vi) Cyanic acid;

(vii) Toiletries, including perfumes and scents;

(viii) Organic phosphate esters (e.g., hydraulic fluids, flame retardants, surfactants, and sequestering agents); and

(2) Leather tannery and finishing supplies.

(d) Unscheduled discrete organic chemicals are used in a wide variety of commercial industries, and include acetone, benzoyl peroxide and propylene glycol.

### §710.5 Authority.

The CWCR (parts 710 through 722 of this subchapter) implement certain provisions of the Chemical Weapons Convention under the authority of the Chemical Weapons Convention Implementation Act of 1998 (Act), the National Emergencies Act, the International Emergency Economic Powers Act (IEEPA), as amended, and the Export Administration Act of 1979, as amended, by extending verification and

## 15 CFR Ch. VII (1-1-03 Edition)

trade restriction requirements under Article VI and related parts of the Verification Annex of the Convention to U.S. persons. In Executive Order 13128 of June 25, 1999, the President delegated authority to the Department of Commerce to promulgate regulations to implement the Act, and consistent with the Act, to carry out appropriate functions not otherwise assigned in the Act but necessary to implement certain reporting, monitoring and inspection requirements of the Convention and the Act.

### §710.6 Relationship between the Chemical Weapons Convention Regulations and the Export Administration Regulations.

Certain obligations of the U.S. government under the CWC pertain to exports. These obligations are implemented in the Export Administration Regulations (EAR) (15 CFR parts 730 through 799) and the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130). See in particular §742.18 and part 745 of the EAR, and Export Control Classification Numbers 1C350, 1C351 and 1C355 of the Commerce Control List (Supplement No. 1 to part 774 of the EAR).

#### SUPPLEMENT NO. 1 TO PART 710—STATES PARTIES TO THE CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING, AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

LIST OF STATES PARTIES AS OF DECEMBER 30, 1999

Albania  
Algeria  
Argentina  
Armenia  
Australia  
Austria  
Bahrain  
Bangladesh  
Belarus  
Belgium  
Benin  
Bolivia  
Bosnia-Herzegovina  
Botswana  
Brazil  
Brunei Darussalam  
Bulgaria  
Burkina Faso  
Burundi  
Cameroon

**Bureau of Industry and Security, Commerce**

**Pt. 711**

Canada  
Chile  
China\*  
Cook Islands  
Costa Rica  
Cote d'Ivoire (Ivory Coast)  
Croatia  
Cuba  
Cyprus  
Czech Republic  
Denmark  
Ecuador  
El Salvador  
Equatorial Guinea  
Ethiopia  
Estonia  
Fiji  
Finland  
France  
Gambia  
Georgia  
Germany  
Ghana  
Greece  
Guinea  
Guyana  
Holy See  
Hungary  
Iceland  
India  
Indonesia  
Iran  
Ireland  
Italy  
Japan  
Jordan  
Kenya  
Korea (Republic of)  
Kuwait  
Laos (P.D.R.)  
Latvia  
Lesotho  
Liechtenstein  
Lithuania  
Luxembourg  
Macedonia  
Malawi  
Maldives  
Mali  
Malta  
Mauritius  
Mauritania  
Mexico  
Moldova (Republic of)  
Monaco  
Mongolia  
Morocco  
Namibia  
Nepal  
Netherlands  
New Zealand  
Nicaragua  
Niger  
Nigeria  
Norway  
Oman  
Pakistan

Panama  
Papua New Guinea  
Paraguay  
Peru  
Philippines  
Poland  
Portugal  
Qatar  
Romania  
Russian Federation  
Saint Lucia  
Saudi Arabia  
Senegal  
Seychelles  
Singapore  
Slovak Republic  
Slovenia  
South Africa  
Spain  
Sri Lanka  
Sudan  
Suriname  
Swaziland  
Sweden  
Switzerland  
Tajikistan  
Tanzania, United Republic of  
Togo  
Trinidad and Tobago  
Tunisia  
Turkey  
Turkmenistan  
Ukraine  
United Kingdom  
United States  
Uruguay  
Uzbekistan  
Venezuela  
Vietnam  
Zimbabwe

\*For CWC States Parties purposes, China includes Hong Kong and Macau.

**PART 711—GENERAL INFORMATION REGARDING DECLARATION, REPORTING AND NOTIFICATION REQUIREMENTS**

- Sec.
- 711.1 Overview of declaration, reporting, and notification requirements.
  - 711.2 Who submits declarations, reports, and notifications.
  - 711.3 Assistance in determining your obligations.
  - 711.4 Declaration and reporting of activities occurring prior to December 30, 1999.
  - 711.5 Numerical precision of submitted data.
  - 711.6 Where to obtain forms.

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