§ 715.1 Annual declaration requirements for production by synthesis of unscheduled discrete organic chemicals (UDOCs).

(a) Declaration of production by synthesis of UDOCs for purposes not prohibited by the CWC—(1) Production quantities that trigger the declaration requirement. See §711.6 of the CWCR for information on obtaining the forms you will need to declare production of unscheduled discrete organic chemicals. You must complete the forms specified in paragraph (b) of this section if your plant site produced by synthesis:
   (i) In excess of 200 metric tons aggregate of all UDOCs (including all UDOCs containing the elements phosphorus, sulfur or fluorine, referred to as “PSF chemicals”) during the previous calendar year; or
   (ii) In excess of 30 metric tons of an individual PSF chemical at one or more plants at your plant site during the previous calendar year.

   NOTE TO §715.1(a)(1)(ii): In calculating the aggregate production quantity of each individual PSF chemical produced by a PSF plant, do not include production of a PSF chemical that was produced in quantities less than 30 metric tons. Include only production quantities from those PSF plants that produced more than 30 metric tons of an individual PSF chemical.

   (2) UDOCs subject to declaration requirements under this part. (i) UDOCs subject to declaration requirements under this part are those produced by synthesis that have been isolated for:
      (A) Use; or
      (B) Sale as a specific end product.
   (ii) Exemptions.
      (A) Polymers and oligomers consisting of two or more repeating units;
      (B) Chemicals and chemical mixtures produced through a biological or biomediated process;
      (C) Products from the refining of crude oil, including sulfur-containing crude oil;
      (D) Metal carbides (i.e., chemicals consisting only of metal and carbon); and
      (E) UDOCs produced by synthesis that are ingredients or by-products in foods designed for consumption by humans and/or animals.

   NOTE TO §715.1(a)(2): See Supplement No. 2 to this part 715 for examples of UDOCs subject to the declaration requirements of this part, and for examples of activities that are not considered production by synthesis.

   (3) Exemptions for UDOC plant sites. UDOC plant sites that exclusively produced hydrocarbons or explosives are exempt from UDOC declaration requirements. For the purposes of this part, the following definitions apply for hydrocarbons and explosives:
      (i) Hydrocarbon means any organic compound that contains only carbon and hydrogen; and
      (ii) Explosive means a chemical (or a mixture of chemicals) that is included in Class 1 of the United Nations Organization hazard classification system.
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(b) Types of declaration forms to be used—(1) Annual declaration on past activities. You must complete the Certification Form and Form UDOC (consisting of two pages), unless there are no changes from the previous year’s declaration and you submit a No Changes Authorization Form pursuant to paragraph (b)(2) of this section. Attach Form A as appropriate; Form B is optional.

NOTE TO § 715.1(d)(1): If there is a change in the inspection status of your plant site, as described in paragraph (d)(2) of this section, you may submit an Annual Declaration on Past Activities, in lieu of a Change in Inspection Status Form, under the circumstances described in Note 3 to paragraph (d)(2). In this case, the due date for submitting the Annual Declaration on Past Activities to BIS, covering UDOC production at your plant site during the current calendar year, would be December 15th of the current calendar year, instead of February 28th of the next calendar year (also see Supplement No. 3 to this part). If you choose to submit your Annual Declaration on Past Activities to BIS by December 15th and, subsequently, you determine that the production by synthesis of UDOCs at your plant site actually exceeded the UDOC inspection threshold level specified in paragraph (d)(1) of this section, you must submit an amendment to your Annual Declaration on Past Activities (see § 715.2 of the CWCR) and indicate, on Form B, the reason your plant site exceeded the UDOC inspection threshold.

(2) No Changes Authorization Form. You may complete the No Changes Authorization Form if there are no updates or changes to any information (except the certifying official and dates signed and submitted) in your plant site’s previously submitted annual declaration on past activities. Your plant site’s activities will be declared to the OPCW and subject to inspection, if applicable, based upon the data reported in the most recent UDOC Declaration that you submitted to BIS.

NOTE TO § 715.1(b)(2): If, after submitting the No Changes Authorization Form, you have changes to information, you must submit a complete amendment to the annual declaration on past activities. See § 715.2 of the CWCR.

(c) “Declared” UDOC plant site. A plant site that submitted a declaration pursuant to paragraph (a)(1) of this section is a “declared” UDOC plant site.

(d) Routine inspections of declared UDOC plant sites. (1) Inspection requirement. A “declared” UDOC plant site is subject to routine inspection by the Organization for the Prohibition of Chemical Weapons (OPCW) (see part 716 of the CWCR) if it produced by synthesis more than 200 metric tons aggregate of UDOCs during the previous calendar year.

(2) Change in inspection status. You may complete the Change in Inspection Status Form, to ensure that your facility does not remain subject to inspection during the first 90 days of the next calendar year (i.e., prior to the submission of the U.S. declaration to the OPCW), if:

(i) Your plant site is currently subject to inspection, pursuant to paragraph (d)(1) of this section, based on your plant site’s production by synthesis of UDOCs during the previous calendar year; and

(ii) Your plant site’s production by synthesis of UDOCs in the current calendar year will be below the inspection threshold level specified in paragraph (d)(1) of this section by the deadline indicated in Supplement No. 3 to this part, and is anticipated to remain below that threshold level through the remainder of the current calendar year.

NOTE 1 TO § 715.1(d)(2): Upon receipt of the Change in Inspection Status Form, BIS will inform the Organization for the Prohibition of Chemical Weapons (OPCW) that your plant site is not subject to inspection during the next calendar year.

NOTE 2 TO § 715.1(d)(2): If, after submitting your Change in Inspection Status Form to BIS, you determine that the production by synthesis of UDOCs at your plant site actually exceeded the UDOC inspection threshold level specified in paragraph (d)(1) of this section, you must indicate this fact when you submit your Annual Declaration on Past Activities to BIS and indicate, on Form B, the reason your plant site exceeded the UDOC inspection threshold.

NOTE 3 TO § 715.1(d)(2): You may submit the Annual Declaration on Past Activities described in paragraph (b)(1) of this section, instead of the Change in Inspection Status Form, if you anticipate that UDOC production at your plant site during the current calendar year will be below the inspection threshold level specified in paragraph (d)(1) of this section, but you expect your plant site to remain subject to the UDOC declaration requirements in paragraph (a)(1) of this
section. In this case, the due date for the An-
nual Declaration on Past Activities will be
December 15th of the current calendar year,
instead of February 28th of the next calendar
year. Note that any changes to information
contained in the Annual Declaration on Past
Activities must be addressed in accordance
with the amendment requirements in §715.2
of the CWCR. For example, if subsequent to
the submission of your Annual Declaration
on Past Activities to BIS on December 15th,
you determine that the production by syn-
thesis of UDOCs at your plant site actually
exceeded the UDOC inspection threshold
level specified in paragraph (d)(1) of this sec-
tion, you must submit an amendment to
your Annual Declaration on Past Activities
(see §715.2 of the CWCR) and indicate, on
Form B, the reason your plant site exceeded
the UDOC inspection threshold.

NOTE 4 TO §715.1(d)(2): Currently inspect-
able UDOC plant sites that do not submit ei-
ther a Change in Inspection Status Form or
Annual Declaration of Past Activities by De-
cember 15th of the current calendar year, in
accordance with paragraph (d)(2) of this sec-
tion, will remain subject to inspection
through at least the 90-day period at the be-
ginning of the next calendar year.

[71 FR 24929, Apr. 27, 2006, as amended at 72
FR 14408, Mar. 28, 2007]

§715.2 Amended declaration.

In order for BIS to maintain accurate
information on previously submitted
plant site declarations, including cur-
rent information necessary to facili-
tate inspection notifications and ac-
tivities or to communicate declaration
requirements, amended declarations
will be required under the following
circumstances described in this sec-
tion. This section applies only to an-
nual declarations on past activities
submitted for the previous calendar
year, unless specified otherwise in a
final inspection report.

(a) Changes to information that directly
affects a declared plant site's Annual
Declaration of Past Activities (ADPA)
which was previously submitted to BIS.
You must submit an amended declara-
tion to BIS within 15 days of any
change in the following information:

(1) Product group codes for UDOCs
produced in quantities exceeding the
applicable declaration threshold speci-
fied in §715.1(a)(1) of the CWCR;

(2) Approximate number of plants at
the declared plant site that produced
any amount of UDOCs (including all
PSF chemicals);

(3) Aggregate amount of production
(by production range) of UDOCs pro-
duced by all plants at the declared
plant site;

(4) Exact number of plants at the de-
clared plant site that individually pro-
duced more than 30 metric tons of a
single PSF chemical; and

(5) Production range of each plant at
the declared plant site that individ-
ually produced more than 30 metric
tons of a single PSF chemical.

(b) Changes to company and plant site
information submitted in the ADPA that
must be maintained by BIS—(1) Internal
company changes. You must submit an
amended declaration to BIS within 30
days of any change in the following infor-
mation:

(i) Name of declaration point of con-
tact (D-POC), including telephone
number, facsimile number, and e-mail
address;

(ii) Name(s) of inspection point(s) of
contact (I-POC), including telephone
number, facsimile number(s) and e-
mail address(es);

(iii) Company name (see 715.2(b)(2) for
other company changes);

(iv) Company mailing address;

(v) Plant site name;

(vi) Plant site owner, including tele-
phone number and facsimile number;

and

(vii) Plant site operator, including
telephone number and facsimile num-
ber.

(2) Change in ownership of company or
plant site. If you sold or purchased a de-
clared plant site, you must submit an
amended declaration to BIS, either be-
fore the effective date of the change or
within 30 days after the effective date
of the change. The amended declara-
tion must include the following infor-
mation.

(i) Information that must be sub-
mitted to BIS by the company selling a
declared plant site:

(A) Name of seller (i.e., name of com-
pany selling a declared plant site);

(B) Name of declared plant site name
and U.S. Code Number for that plant
site;

(C) Name of purchaser (i.e., name of
new company purchasing a declared
plant site) and identity of contact per-
son for the purchaser, if known;