

**§716.1 General information on the conduct of initial and routine inspections.**

This part provides general information about the conduct of initial and routine inspections of declared facilities subject to inspection under CWC Verification Annex Part VI (E), Part VII(B), Part VIII(B) and Part IX(B). See part 717 of this subchapter for provisions concerning challenge inspections.

(a) *Overview.* Each State Party to the CWC, including the United States, has agreed to allow certain inspections of declared facilities by inspectors employed by the Organization for the Prohibition of Chemical Weapons (OPCW) to ensure that activities are consistent with obligations under the Convention. The Department of Commerce is responsible for leading, hosting and escorting inspections of all facilities subject to the provisions of this subchapter (see §710.2 of this subchapter).

(b) *Declared facilities subject to initial and routine inspections.* (1) *Schedule 1 facilities.* (i) Your declared facility is subject to inspection if it produced in excess of 100 grams aggregate of Schedule 1 chemicals in the previous calendar year or anticipates producing in excess of 100 grams aggregate of Schedule 1 chemicals during the next calendar year.

(ii) If you are a new Schedule 1 production facility pursuant to §712.4 of this subchapter, your facility is subject to an initial inspection within 200 days of submitting an initial declaration.

(iii) If your declared facility submitted an annual declaration on past activities for calendar year 1997 or 1998, you are subject to an initial inspection.

NOTE TO PARAGRAPH (b)(1): All Schedule 1 facilities submitting a declaration are subject to inspection.

(2) *Schedule 2 plant sites.* (i) Your declared plant site is subject to inspection if at least one plant on your plant site produced, processed or consumed, in any of the three previous calendar years, or you anticipate that at least one plant on your plant site will produce, process or consume in the next calendar year, any Schedule 2 chemical in excess of the following:

(A) 10 kg of chemical BZ: 3-Quinuclidinyl benzilate (see Schedule 2, Part A, paragraph 3 in Supplement No. 1 to part 713 of this subchapter);

(B) 1 metric ton of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene or any chemical belonging to the Amiton family (see Schedule 2, Part A, paragraphs 1 and 2 in Supplement No. 1 to part 713 of this subchapter); or

(C) 10 metric tons of any chemical listed in Schedule 2, Part B (see Supplement No. 1 to part 713 of this subchapter).

(ii) If your declared plant site submitted an initial declaration for calendar years 1994, 1995 and 1996, and at least one plant on your plant site produced a Schedule 2 chemical during any one of those three years in excess of the applicable inspection threshold quantity set forth in paragraphs (b)(2)(i)(A) through (C) of this section, you are subject to an initial inspection.

NOTE TO PARAGRAPH (b)(2): The applicable inspection threshold quantity for Schedule 2 plant sites is ten times higher than the applicable declaration threshold quantity. Only declared plant sites, comprising at least one declared plant that exceeds the applicable inspection threshold quantity, are subject to inspection.

(3) *Schedule 3 plant sites.* (i) Your declared plant site is subject to inspection if the declared plants on your plant site produced during the previous calendar year, or you anticipate will produce in the next calendar year, in excess of 200 metric tons aggregate of any Schedule 3 chemical (see Supplement No. 1 to part 714 of this subchapter).

(ii) If your declared plant site submitted an initial declaration for calendar year 1996 and/or annual declaration on past activities for calendar year 1997 or 1998, and exceeded the inspection threshold set forth in paragraph (b)(3)(i) of this section, you are subject to a routine inspection.

NOTE TO PARAGRAPH (b)(3): The methodology for determining a declarable and inspectable plant site is different. A Schedule 3 plant site that submits a declaration is subject to inspection only if the aggregate production of a Schedule 3 chemical at all declared plants on the plant site exceeds 200 metric tons.

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(4) *Unscheduled discrete organic chemical plant sites.* (i) Your declared plant site is subject to inspection if it produced by synthesis more than 200 metric tons aggregate of unscheduled discrete organic chemicals during the previous calendar year.

(ii) If your declared plant site submitted an initial declaration for calendar year 1996 and/or annual declaration on past activities for calendar year 1997 or 1998, and exceeded the inspection threshold set forth in paragraph (b)(4)(i) of this section, you are subject to a routine inspection.

NOTE 1 TO PARAGRAPH (b)(4): You must include amounts of unscheduled discrete organic chemicals containing phosphorus, sulfur or fluorine in the calculation of your plant site's aggregate production of unscheduled discrete organic chemicals.

NOTE 2 TO PARAGRAPH (b)(4): All UDOC plant sites that submit a declaration based on §715.1(a)(i) of this subchapter are subject to a routine inspection.

(c) *Responsibilities of the Department of Commerce.* As the host and escort for the international Inspection Team for all inspections of facilities subject to the provisions of this subchapter under this part, the Department of Commerce will: lead on-site inspections; provide Host Team notification to the facility of an impending inspection; take appropriate action to obtain an administrative warrant in the event the facility does not consent to the inspection; dispatch an advance team to the vicinity of the site to provide administrative and logistical support for the impending inspection and, upon request, to assist the facility with inspection preparation; escort the Inspection Team on-site throughout the inspection process; assist the Inspection Team with verification activities; negotiate the development of a site-specific facility agreement, if appropriate, during an initial inspection of a facility (see §716.6); and ensure that an inspection adheres to the Convention, the Act and any warrant issued thereunder, and a site-specific facility agreement, if concluded.

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### §716.2 Purposes and types of inspections of declared facilities.

(a) *Schedule 1 facilities.* (1) *Purposes of inspections.* The aim of inspections of Schedule 1 facilities is to verify that:

(i) The facility is not used to produce any Schedule 1 chemical, except for the declared Schedule 1 chemicals;

(ii) The quantities of Schedule 1 chemicals produced, processed or consumed are correctly declared and consistent with needs for the declared purpose; and

(iii) The Schedule 1 chemical is not diverted or used for purposes other than those declared.

(2) *Types of inspections.* (i) *Initial inspections.* During initial inspections of declared Schedule 1 facilities, in addition to the verification activities listed in paragraph (a)(1) of this section, the Host Team and the Inspection Team will draft site-specific facility agreements (see §716.6) for the conduct of routine inspections.

(ii) *Routine inspections.* During routine inspections of declared Schedule 1 facilities, the verification activities listed in paragraph (a)(1) of this section will be carried out pursuant to site-specific facility agreements (§716.6) developed during the initial inspections and concluded between the U.S. Government and the OPCW pursuant to the Convention.

(b) *Schedule 2 plant sites.* (1) *Purposes of inspections.* (i) The general aim of inspections of declared Schedule 2 plant sites is to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in declarations. Particular aims of inspections of declared Schedule 2 plant sites are to verify:

(A) The absence of any Schedule 1 chemical, especially its production, except if in accordance with the provisions of the Convention;

(B) Consistency with declarations of levels of production, processing or consumption of Schedule 2 chemicals; and

(C) That Schedule 2 chemicals are not diverted to activities prohibited under the Convention.

(ii) During initial inspections, inspectors shall collect information to determine the frequency and intensity of subsequent inspections by assessing