

## Bureau of Export Administration, Commerce

## §719.1

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AUTHORITY: 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13128, 64 FR 36703.

SOURCE: 64 FR 73804, Dec. 30, 1999, unless otherwise noted.

### §719.1 Scope and definitions.

(a) *Scope.* This part 719 describes the various sanctions that apply to violations of the Act and this subchapter. It also establishes detailed administrative procedures for certain violations of the Act. The three categories of violations are as follows:

(1) *Violations of the Act subject to administrative and criminal enforcement proceedings.* This CWCR sets forth in §719.2 violations for which the statutory basis is the Act. The Department of Commerce investigates these violations and, for administrative proceedings, prepares charges, provides legal representation to the U.S. Government, negotiates settlements, and makes recommendations to officials of the Department of State with respect to the initiation and resolution of proceedings. The administrative procedures applicable to these violations are found in §§719.5 through 719.22 of this part. The Department of State gives notice of initiation of administrative proceedings and issues orders imposing penalties pursuant to 22 CFR part 103, subpart C.

(2) *Violations of the International Emergency Economic Powers Act (IEEPA) subject to judicial enforcement proceedings.* Section 719.3 sets forth violations of the Chemical Weapons Conven-

tion for which the statutory basis is the IEEPA. The Department of Commerce refers these violations to the Department of Justice for civil or criminal judicial enforcement.

(3) *Violations and sanctions under the Act not subject to proceedings under this subchapter.* Section 719.4 sets forth violations and sanctions under the Act that are not violations of this subchapter and that are not subject to proceedings under this subchapter. This section is included solely for informational purposes. The Department of Commerce may assist in investigations of these violations, but has no authority to initiate any enforcement action under this subchapter.

NOTE TO PARAGRAPH (a): This part 719 does not apply to violations of the export requirements imposed pursuant to the Chemical Weapons Convention and set forth in the Export Administration Regulations (EAR) (15 CFR parts 730 through 799) and in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130).

(b) *Definitions.* The following are definitions of terms as used only in parts 719 and 720. For definitions of terms applicable to parts 710 through 722 of this subchapter, see part 710 of this subchapter.

*The Act.* The Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6701-6777).

*Assistant Secretary for Export Enforcement.* The Assistant Secretary for Export Enforcement, Bureau of Export Administration, United States Department of Commerce.

*Final decision.* A decision or order assessing a civil penalty, or otherwise disposing of or dismissing a case, which is not subject to further administrative review, but which may be subject to collection proceedings or judicial review in an appropriate Federal court as authorized by law.

*IEEPA.* The International Emergency Economic Powers Act, as amended (50 U.S.C. 1701-1706).

*Office of Chief Counsel.* The Office of Chief Counsel for Export Administration, United States Department of Commerce.

*Report.* For purposes of parts 719 and 720 of this subchapter, the term "report" means any declaration, report, or

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notification required under parts 712 through 715 of this subchapter.

*Respondent.* Any person named as the subject of a letter of intent to charge, or a Notice of Violation and Assessment (NOVA) and proposed order.

*Under Secretary for Export Administration.* The Under Secretary for Export Administration, Bureau of Export Administration, United States Department of Commerce.

### §719.2 Violations of the Act subject to administrative and criminal enforcement proceedings.

(a) *Violations.* (1) *Refusal to permit entry or inspection.* No person may willfully fail or refuse to permit entry or inspection, or disrupt, delay or otherwise impede an inspection, authorized by the Act.

(2) *Failure to establish or maintain records.* No person may willfully fail or refuse:

(i) To establish or maintain any record required by the Act or this subchapter; or

(ii) To submit any report, notice, or other information to the United States Government in accordance with the Act or this subchapter; or

(iii) To permit access to or copying of any record that is exempt from disclosure under the Act or this subchapter.

(b) *Civil penalties.* (1) *Civil penalty for refusal to permit entry or inspection.* Any person that is determined to have willfully failed or refused to permit entry or inspection, or to have disrupted, delayed or otherwise impeded an authorized inspection, as set forth in paragraph (a)(1) of this section, shall pay a civil penalty in an amount not to exceed \$25,000 for each violation. Each day the violation continues constitutes a separate violation.

(2) *Civil penalty for failure to establish or maintain records.* Any person that is determined to have willfully failed or refused to establish or maintain any record or submit any report, notice, or other information required by the Act or this subchapter, or to permit access to or copying of any record exempt from disclosure under the Act or this subchapter as set forth in paragraph (a)(2) of this section, shall pay a civil penalty in an amount not to exceed \$5,000 for each violation.

(c) *Criminal penalty.* Any person that knowingly violates the Act by willfully failing or refusing to permit entry or inspection authorized by the Act; or by willfully disrupting, delaying or otherwise impeding an inspection authorized by the Act; or by willfully failing or refusing to establish or maintain any required record, or to submit any required report, notice, or other information; or by willfully failing or refusing to permit access to or copying of any record exempt from disclosure under the Act or CWCR, shall, in addition to or in lieu of any civil penalty that may be imposed, be fined under Title 18 of the United States Code, be imprisoned for not more than one year, or both.

(d) *Denial of export privileges.* Any person in the United States or any U.S. national may be subject to a denial of export privileges after notice and opportunity for hearing pursuant to part 720 of this subchapter if that person has been convicted under Title 18, section 229 of the United States Code.

### §719.3 Violations of the IEEPA subject to judicial enforcement proceedings.

(a) *Violations.* (1) *Import restrictions involving Schedule 1 chemicals.* Except as otherwise provided in §712.1 of this subchapter, no person may import any Schedule 1 chemical (See Supplement No. 1 to part 712 of this subchapter) unless:

(i) The import is from a State Party;

(ii) The import is for research, medical, pharmaceutical, or protective purposes;

(iii) The import is in types and quantities strictly limited to those that can be justified for such purposes; and

(iv) The importing person has notified the Department of Commerce 45 calendar days prior to the import pursuant to §712.4 of this subchapter.

(2) *Import restrictions involving Schedule 2 chemicals.* Except as otherwise provided in §713.1 of this subchapter, no person may, on or after April 29, 2000, import any Schedule 2 chemical (see Supplement No. 1 to part 713 of this subchapter) from any destination other than a State Party.