

§ 714.3 Initial and annual report requirements for exports and imports of Schedule 3 chemicals.

(a) Any person subject to the CWCR that exported from or imported to the United States a Schedule 3 chemical in excess of 30 metric tons in any calendar year, beginning with calendar year 1996, has a reporting requirement under this section.

(1) *Initial report on exports and imports.* Declared plant sites, undeclared plant sites, trading companies, and any other person subject to the CWCR that exported from or imported to the United States in excess of 30 metric tons of a Schedule 3 chemical in calendar year 1996 must submit an initial report on exports and imports.

(2) *Annual report on exports and imports.* Declared plant sites, undeclared plant sites, trading companies, and any other person subject to the CWCR that exported from or imported to the United States in excess of 30 metric tons of a Schedule 3 chemical in a previous calendar year, beginning with calendar year 1997, must submit an annual report on exports and imports.

NOTE 1 TO PARAGRAPHS (a)(1) AND (a)(2). Declared and undeclared plant sites must count, for report purposes, all exports from and imports to the entire plant site, not only from or to individual plants on the plant site.

NOTE 2 TO PARAGRAPHS (a)(1) AND (a)(2): The U.S. Government will not submit to the OPCW company-specific information relating to the export or import of Schedule 3 chemicals contained in reports. The U.S. Government will add all export and import information contained in reports to establish the U.S. national aggregate declaration on exports and imports.

(3) *Mixtures containing a Schedule 3 chemical.* The quantity of a Schedule 3 chemical contained in a mixture must be counted for reporting an export or import only if the concentration of the Schedule 3 chemical in the mixture is 80% or more by volume or by weight, whichever yields the lesser percent. For reporting purposes, only count the weight of the Schedule 3 chemical in the mixture, not the entire weight of the mixture.

NOTE TO PARAGRAPH (a)(3). The "80% and above" mixtures rule applies only for report purposes. This rule does not apply for purposes of determining whether the export of

your mixture to a non-State Party requires an End-Use Certificate or for determining whether you need an export license from the Department of Commerce (see §§ 742.2, 742.18 and 745.2 of the Export Administration Regulations) or from the Department of State (see the International Traffic in Arms Regulations (22 C.F.R. 120 through 130)).

(b) *Types of forms to be used.* (1) *Declared Schedule 3 plant sites.* (i) If your plant site is declared for production of a Schedule 3 chemical (and has completed questions 3-3.1 and 3-3.2 on Form 3-3) and you also exported or imported that same Schedule 3 chemical in excess of 30 metric tons, you may report the export or import by:

(A) Completing question 3-3.3 on Form 3-3 on your declaration for that same Schedule 3 chemical to be reported; or

(B) Submitting, separately from your declaration, a Certification Form, Form 3-1, and a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional.

(ii) If your plant site declared production of a Schedule 3 chemical and exported or imported a different Schedule 3 chemical in excess of 30 metric tons, you may report the export or import by:

(A) Submitting, along with your declaration, a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional; or

(B) Submitting, separately from your declaration, a Certification Form, Form 3-1 and a Form 3.3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional.

(2) If you are an undeclared plant site or trading company, or any other person subject to the CWCR, you must submit a Certification Form, Form 3-1, and a Form 3-3 for each Schedule 3 chemical to be reported, completing only question 3-3.3. Attach Form A, as appropriate; Form B is optional.

(c) *Quantities to be reported.* (1) *Calculations.* If you exported from or imported to your plant site or trading company more than 30 metric tons of a Schedule 3 chemical in the previous

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calendar year, you must report all exports and imports of that chemical by destination, and indicate the total amount exported to or imported from each destination. Only indicate the total annual quantity exported to or imported from a specific destination if the total annual quantity to or from that destination is more than 1% of the applicable threshold (i.e., more than 0.3 metric tons). However, in determining whether your total exports and imports worldwide for the year in question trigger a report requirement, you must include all exports and imports, including exports and imports falling within the 1% exemption in your calculation.

(2) *Rounding.* For purposes of reporting exports and imports of a Schedule 3 chemical, you must total all exports and imports per calendar year per recipient or source destination and then round to the nearest 0.1 metric tons.

NOTE TO §714.3: Under the Convention, the United States is obligated to provide the OPCW a national aggregate annual declaration of the quantities of each Schedule 3 chemical exported and imported. The U.S. Government will *not* submit your company-specific information relating to the export or import of a Schedule 3 chemical reported under this §714.3. The U.S. Government will add all export and import information submitted by various facilities under this section to produce a national aggregate annual declaration of destination-by-destination trade for each Schedule 3 chemical.

§714.4 Advance declaration requirements for additionally planned production of Schedule 3 chemicals.

(a) *Declaration requirements.* (1) You must declare additionally planned production of Schedule 3 chemicals after the annual declaration on anticipated activities for the next calendar year has been delivered to BIS if:

(i) You plan that a previously undeclared plant on your plant site under §714.2(a)(1)(iii) will produce a Schedule 3 chemical above the declaration threshold;

(ii) You plan to produce at a plant declared under §714.2(a)(1)(iii) an additional Schedule 3 chemical above the declaration threshold;

(iii) You plan to increase the production of a Schedule 3 chemical by declared plants on your plant site from the amount exceeding the applicable

declaration threshold to an amount exceeding the applicable inspection threshold (see §716.1(b)(3)); or

(iv) You plan to increase the aggregate production of a Schedule 3 chemical at a declared plant site to an amount above the upper limit of the range previously declared under §714.2(a)(1)(iii).

(2) If you must submit a declaration on additionally planned activities because you plan to engage in any of the activities listed in paragraphs (a)(1)(i) through (iv) of this section, you should also declare any changes to the anticipated purposes of production or product group codes. You do not have to submit a declaration on additionally planned activities if you are only changing your purposes of production or product group codes.

(b) *Declaration forms to be used.* If you are required to declare additionally planned activities pursuant to paragraph (a) of this section, you must complete the Certification Form and Forms 3-1, 3-2, and 3-3 as appropriate. Such forms are due to BIS at least 15 days in advance of the beginning of the additional or new activity.

§714.5 Frequency and timing of declarations.

Declarations and reports required under this part must be postmarked by the appropriate date identified in Table 1 of this section. Required declarations and reports include:

(a) Declaration on past production of any amount of Schedule 3 chemicals for chemical weapons (CW) purposes since January 1, 1946;

(b) Initial declaration (production of Schedule 3 chemicals during calendar year 1996);

(c) Initial report on exports and imports from trading companies, plant sites and other persons (during calendar year 1996);

(d) Annual declaration on past activities (production of Schedule 3 chemicals during the previous calendar year, beginning with 1997);

(e) Annual report on exports and imports from trading companies, plant sites and other persons (during the previous calendar year, beginning with 1997); and