

§712.6

15 CFR Ch. VII (1–1–10 Edition)

or §712.4 of the CWC are considered “declared” Schedule 1 facilities. A “declared” Schedule 1 facility is subject to initial and routine inspection by the OPCW (see part 716 of the CWC).

(f) *Approval of declared Schedule 1 production facilities.* Facilities that submit declarations pursuant to this section are considered approved Schedule 1 production facilities for purposes of the CWC, unless otherwise notified by BIS within 30 days of receipt by BIS of an annual declaration on past activities or annual declaration on anticipated activities (see paragraphs (a)(1) and (a)(2) of this section). If your facility does not produce more than 100 grams aggregate of Schedule 1 chemicals, no approval by BIS is required.

(g) *Withdrawal of Schedule 1 initial declarations.* A facility subject to §§712.3, 712.4 and 712.5 of the CWC may withdraw its initial declaration at any time by notifying BIS in writing. A notification requesting the withdrawal of the initial declaration should be sent on company letterhead to the address in §711.6 of the CWC. BIS will acknowledge receipt of the withdrawal of the initial declaration. Facilities withdrawing their initial declaration may not produce subsequently in excess of 100 grams aggregate of Schedule 1 chemicals within a calendar year unless pursuant to §712.4.

§712.6 Advance notification and annual report of all exports and imports of Schedule 1 chemicals to, or from, other States Parties.

Pursuant to the Convention, the United States is required to notify the OPCW not less than 30 days in advance of every export or import of a Schedule 1 chemical, in any quantity, to or from another State Party. In addition, the United States is required to provide a report of all exports and imports of Schedule 1 chemicals to or from other States Parties during each calendar year. If you plan to export or import any quantity of a Schedule 1 chemical from or to your declared facility, undeclared facility or trading company, you must notify BIS in advance of the export or import and complete an annual report of exports and imports that actually occurred during the

previous calendar year. The United States will transmit to the OPCW the advance notifications and a detailed annual declaration of each actual export or import of a Schedule 1 chemical from/to the United States. Note that the advance notification and annual report requirements of this section do not relieve you of any requirement to obtain a license for export of Schedule 1 chemicals subject to the EAR or ITAR or a license for import of Schedule 1 chemicals from the Department of Justice under the Alcohol, Tobacco, Firearms and Explosives Regulations in 27 CFR part 447. Only “declared” facilities, as defined in §712.5(e) of the CWC, are subject to initial and routine inspections pursuant to part 716 of the CWC.

(a) *Advance notification of exports and imports.* You must notify BIS at least 45 calendar days prior to exporting or importing any quantity of a Schedule 1 chemical, except for exports or imports of 5 milligrams or less of Saxitoxin—B (7)—for medical/diagnostic purposes, listed in Supplement No. 1 to this part to or from another State Party. Advance notification of export or import of 5 milligrams or less of Saxitoxin for medical/diagnostic purposes only, must be submitted to BIS at least 3 calendar days prior to export or import. Note that advance notifications for exports may be sent to BIS prior to or after submission of a license application to BIS for Schedule 1 chemicals subject to the EAR and controlled under ECCN 1C351 or to the Department of State for Schedule 1 chemicals controlled under the ITAR. Such advance notifications must be submitted separately from license applications.

(1) Advance notifications should be on company letterhead or must clearly identify the reporting entity by name of company, complete address, name of contact person and telephone and facsimile numbers, along with the following information:

- (i) Chemical name;
- (ii) Structural formula of the chemical;
- (iii) Chemical Abstract Service (CAS) Registry Number;
- (iv) Quantity involved in grams;
- (v) Planned date of export or import;

(vi) Purpose (end-use) of export or import (i.e., research, medical, pharmaceutical, or protective purposes);

(vii) Name(s) of exporter and importer;

(viii) Complete street address(es) of exporter and importer;

(ix) U.S. export license or control number, if known; and

(x) Company identification number, once assigned by BIS.

(2) Send the advance notification either by fax to (202) 482-1731 or by mail or courier delivery to the following address: Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 4515, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, and mark it "Attn: Advance Notification of Schedule 1 Chemical [Export] [Import]."

(3) Upon receipt of the advance notification, BIS will inform the exporter or importer of the earliest date after which the shipment may occur under the advance notification procedure. To export a Schedule 1 chemical subject to an export license requirement either under the EAR or the ITAR, the exporter must have applied for and been granted a license (see § 742.2 and § 742.18 of the EAR, or the ITAR at 22 CFR parts 120 through 130).

(b) *Annual report requirements for exports and imports of Schedule 1 chemicals.* Any person subject to the CWCR that exported or imported any quantity of Schedule 1 chemical to or from another State Party during the previous calendar year has a reporting requirement under this section.

(1) *Annual report on exports and imports.* Declared and undeclared facilities, trading companies, and any other person subject to the CWCR that exported or imported any quantity of a Schedule 1 chemical to or from another State Party in a previous calendar year must submit an annual report on exports and imports.

(2) *Report forms to submit—(i) Declared Schedule 1 facilities.* (A) If your facility declared production of a Schedule 1 chemical and you also exported or imported any amount of that same Schedule 1 chemical, you must report the export or import by submitting either:

(1) *Combined declaration and report.* Submit, along with your declaration, Form 1-3 for that same Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional; or

(2) *Report.* Submit, separately from your declaration, a Certification Form, Form 1-1, and a Form 1-3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(B) If your facility declared production of a Schedule 1 chemical and exported or imported any amount of a different Schedule 1 chemical, you must report the export or import by submitting either:

(1) *Combined declaration and report.* Submit, along with your declaration, a Form 1-3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional; or

(2) *Report.* Submit, separately from your declaration, a Certification Form, Form 1-1, and a Form 1-3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(ii) If you are an undeclared facility, trading company, or any other person subject to the CWCR, and you exported or imported any amount of a Schedule 1 chemical, you must report the export or import by submitting a Certification Form, Form 1-1, and a Form 1-3 for each Schedule 1 chemical to be reported. Attach Form A, as appropriate; Form B is optional.

(c) Paragraph (a) of this section does not apply to the activities and persons set forth in § 712.2(b) of the CWCR.

[71 FR 24929, Apr. 27, 2006, as amended at 73 FR 78183, Dec. 22, 2008]

§ 712.7 Amended declaration or report.

In order for BIS to maintain accurate information on previously submitted facility declarations, including information necessary to facilitate inspection notifications and activities or to communicate declaration or report requirements, amended declarations or reports will be required under the following circumstances described in this section. This section applies only to annual declarations on past activities