A final decision by the ERC (or the ACEP or EARB or the President, as may be applicable in a particular case) to make an addition to, modification of, or removal of an entry on the Entity List shall operate as clearance by all member agencies to publish the addition, modification or removal as an amendment to the Entity List even if, in the proposals made by a member agency, the ERC decides by a decision that is not unanimous. Such amendments will not be further reviewed through the regular Export Administration Regulations interagency review process.

A proposal by the ERC to make any change to the EAR other than an addition to, modification of, or removal of an entry from the Entity List shall operate as a recommendation and shall not be treated as interagency clearance of an EAR amendment. The chairman of the ERC will be responsible for circulating to all member agencies proposals submitted to him by any member agency. The chairman will be responsible for serving as secretary to the ACEP and EARB for all review of ERC matters. The chairman will communicate all final decisions that require Entity List amendments or individual “is informed” letters, to the Bureau of Industry and Security which shall be responsible for drafting the necessary changes to the Entity List. If the ERC decides in a particular case that a party should be informed individually instead of by EAR amendment the chairman will be responsible for preparing the “is informed” letter for the signature of the Deputy Assistant Secretary for Export Administration.

A listed entity may present a request to remove or modify its Entity List entry along with supporting information to the chairman at Room 3886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. The chairman shall refer all such requests and supporting information to all member agencies. The member agencies will review and vote on all such requests. The time frames, procedures and right of escalation by a member agency that is dissatisfied with the results that apply to proposals made by a member agency shall apply to these requests. The decision of the ERC (or the ACEP or EARB or the President, as may be applicable in a particular case) shall be the final agency decision on the request and shall not be appealable under part 756 of the EAR. The chairman will prepare the response to the party who made the request. The response will state the decision on the request and the fact that the response is the final agency decision on the request. The response will be signed by the Deputy Assistant Secretary for Export Administration.

The End-User Review Committee will conduct a review of the entire Entity List at least once per year for the purpose of determining whether any listed entities should be removed or modified. The review will include analysis of whether the criteria for listing the entity are still applicable and research to determine whether the name(s) and address(es) of each entity are accurate and complete and whether any affiliates of each listed entity should be added or removed.

[73 FR 49322, Aug. 21, 2008]
Commerce in advance of this export. You are also required to provide an
annual report of exports that actually occurred during the previous calendar
year. The United States will transmit the advance notifications and an aggre-
gate annual report to the OPCW of exports of Schedule 1 chemicals from the
United States. Note that the notification and annual report requirements of
this section do not relieve the exporter of any requirement to obtain a license
from the Department of Commerce for the export of Schedule 1 chemicals sub-
ject to the EAR or from the Department of State for the export of Sched-
ule 1 chemicals subject to the ITAR.

(a) Advance notification of exports. You
must notify BIS at least 45 calendar
days prior to exporting any quantity of
a Schedule 1 chemical listed in supple-
ment No. 1 to this part to another
State Party. This is in addition to the
requirement to obtain an export li-
cense under the EAR for chemicals
controlled by ECCN 1C350 or 1C351 for
any reason for control, or from the De-
partment of State for Schedule 1
chemicals controlled under the ITAR.
Note that such notifications may be
sent to BIS prior to or after submission
of a license application to BIS for
Schedule 1 chemicals controlled sub-
ject to the EAR and under ECCNs 1C350
or 1C351 or to the Department of State
for Schedule 1 chemicals controlled on
the ITAR. Such notices must be sub-
mitted separately from license applica-
tions.

(1) Such notification 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 fax
numbers, along with the following in-
formation:

(i) Common Chemical Name;
(ii) Structural formula of the chem-
ical;
(iii) Chemical Abstract Service (CAS)
Registry Number;
(iv) Quantity involved in grams;
(v) Planned date of export;
(vi) Purpose (end-use) of export;
(vii) Name of recipient;
(viii) Complete street address of re-
cipient;
(ix) Export license or control num-
ber, if known; and
(x) Company identification number,
one assigned by BIS.

(2) Send the notification either by fax
to (202) 482–1731 or by mail or courier
delivery to the following address: Infor-
mation Technology Team, Treaty Com-
pliance Division, Bureau of Industry
and Security, U.S. Department of Com-
merce, Room 4515, 14th Street and
Pennsylvania Avenue, NW., Wash-
ington, DC 20230. Attn: “Advance Noti-
fication of Schedule 1 Chemical Ex-
port”.

(b) Annual report of exports. (1) You
must report all exports of any quantity
of a Schedule 1 chemical to another
State Party during the previous cal-
endar year, starting with exports tak-
ing place during calendar year 1997. Re-
ports for exports during calendar years
1997 and 1998 are due to the Department
of Commerce August 16, 1999. There-
after, annual reports of exports are due
on February 13 of the following cal-
endar year. The report 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 fax
numbers along with the following in-
formation for each export:

(i) Common Chemical Name;
(ii) Structural formula of the chem-
ical;
(iii) CAS Registry Number;
(iv) Quantity involved in grams;
(v) Date of export;
(vi) Export license number;
(vii) Purpose (end-use) of export;
(viii) Name of recipient;
(ix) Complete address of recipient, in-
cluding street address, city and coun-
try; and (x) Company identification
number, once assigned by BIS.

(2) The report must be signed by a re-
sponsible party, certifying that the in-
formation provided in the annual re-
port is, to the best of his/her knowledge
and belief, true and complete.
§ 745.2 End-Use Certificate requirements under the Chemical Weapons Convention.

NOTE: The End-Use Certificate requirement of this section does not relieve the exporter of any requirement to obtain a license from the Department of Commerce for the export of Schedule 3 chemicals subject to the Export Administration Regulations or from the Department of State for the export of Schedule 3 chemicals subject to the International Traffic in Arms Regulations.

(a)(1) No U.S. person, as defined in §744.6(c) of the EAR, may export from the United States any Schedule 3 chemical identified in supplement No. 1 to this part to countries not party to the Chemical Weapons Convention (destinations not listed in supplement No. 2 to this part) unless the U.S. person obtains from the consignee an End-Use Certificate issued by the government of the importing destination. This Certificate must be issued by the foreign government’s agency responsible for foreign affairs or any other agency or department designated by the importing government for this purpose. Supplement No. 3 to this part includes foreign authorized agencies responsible for issuing End-Use Certificates pursuant to this section. Additional foreign authorized agencies responsible for issuing End-Use Certificates will be included in supplement No. 3 to this part when known. End-Use Certificates may be issued to cover aggregate quantities against which multiple shipments may be made to a single consignee. An End-Use Certificate covering multiple shipments may be used until the aggregate quantity is shipped. End-Use Certificates must be submitted separately from license applications.

(b) The End-Use Certificate described in paragraph (a) of this section must state the following:

(1) That the chemicals will be used only for purposes not prohibited under the Chemical Weapons Convention;

(2) That the chemicals will not be transferred to other end-user(s) or end-use(s);

(3) The types and quantities of chemicals;

(4) Their specific end-use(s); and

(5) The name(s) and complete address(es) of the end-user(s).


SUPPLEMENT NO. 1 TO PART 745—SCHEDULES OF CHEMICALS

| C.A.S. Registry No. | Schedule 1 A. Toxic chemicals:
|---------------------|--------------------------------------
|                      | (1) O-Alkyl (≤C<sub>10</sub>, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates e.g. Sarin: O-isopropylmethylphosphonofluoridate Soman: O-Pinacolylmethylphosphonofluoridate | 107-44-8
|                      | (2) O-Alkyl (≤C<sub>10</sub>, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)phosphoramidocyanidates e.g. Tabun: O-Ethyl N,N-dimethylphosphoramidocyanidate | 96-64-0
|                      | (3) O-Alkyl (H or ≤C<sub>2</sub>, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts e.g. VX: O-Ethyl S-2-disopropylaminoethyl methylphosphonothiolate | 77-81-6
|                      | (4) Sulfur mustards:
|                      | 2-Chloroethylchloromethylsulfide Mustard gas: Bis(2-chloroethyl)sulfide Bis(2-chloroethyl)thio)methane Sesqui mustard: 1,2-Bis(2-chloroethyl)ethane | 50782-69-9
|                      | 2625-76-5 505-60-2 63869-13-6 3563-36-8 |