

Environmental Protection Agency

§ 707.60

REGION X

1200 Sixth Avenue, Seattle, WA 98101 (206-442-2871)

(iii) If Customs detains or refuses entry of a shipment (other than for failure to make the general certification) and the importer takes measures necessary to bring the shipment into conformity with the requirements of TSCA, EPA officials will reassess the shipment to determine its current compliance status. When a shipment is no longer in violation, EPA will notify the district director and the importer. The district director will then release the shipment. This notice will also serve as a determination to permit entry under 19 CFR 12.123(c) if a shipment is brought into compliance before the 19 CFR 12.123(c) decisionmaking process has been completed. If compliance is achieved after a 19 CFR 12.123(c) determination (adverse to the importer) has been made, the EPA notice to the district director will serve as a reversal of the decision to refuse entry.

(3) *EPA assistance.* Assistance in determining whether a chemical shipment is in compliance with TSCA can be obtained from the Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room E-543B, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 544-0551.

[48 FR 55464, Dec. 13, 1983, as amended at 60 FR 34463, July 3, 1995; 62 FR 1834, Jan. 14, 1997; 75 FR 69353, Nov. 12, 2010; 76 FR 49674, Aug. 11, 2011; 78 FR 37978, June 25, 2013]

Subpart C [Reserved]

Subpart D—Notices of Export Under Section 12(b)

§ 707.60 Applicability and compliance.

(a) Section 12(b) of the Toxic Substances Control Act requires any person who exports or intends to export a chemical substance or mixture to notify the Environmental Protection Agency of such exportation to a particular country if any of the following actions have been taken under the Act with respect to that chemical substance or mixture:

(1) Data are required under section 4 or 5(b),

(2) An order has been issued under section 5,

(3) A rule has been proposed or promulgated under section 5 or 6, or

(4) An action is pending, or relief has been granted under section 5 or 7.

(b) No notice of export will be required for articles, except PCB articles, unless the Agency so requires in the context of individual section 5, 6, or 7 actions.

(c)(1) Except as provided in paragraphs (c)(2) and (3) of this section no notice of export is required for the export of a chemical substance or mixture for which export notification is otherwise required, where such chemical substance or mixture is present in a concentration of less than 1% (by weight or volume).

(2) No notice of export is required for the export of a chemical substance or mixture that is a known or potential human carcinogen where such chemical substance or mixture is present in a concentration of less than 0.1% (by weight or volume). A chemical is considered to be a known or potential human carcinogen, for purposes of TSCA section 12(b) export notification, if that chemical is:

(i) A chemical substance or mixture listed as a “known to be human carcinogen” or “reasonably anticipated to be human carcinogen” in the Report on Carcinogens (latest edition) issued by the U.S. Department of Health and Human Services, Public Health Service, National Toxicology Program,

(ii) A chemical substance or mixture is classified as “carcinogenic to humans” (Group 1), “probably carcinogenic to humans” (Group 2A), or “possibly carcinogenic to humans” (Group 2B) in the Monographs and Supplements on the Evaluation of Carcinogenic Risks to Humans issued by the World Health Organization International Agency for Research on Cancer (IARC), Lyons, France (latest editions), or

(iii) Alpha-naphthylamine (Chemical Abstract Service Registry Number (CAS No.) 134-32-7) or 4-nitrobiphenyl (CAS No. 92-93-3).

(3) No notice of export is required for the export of polychlorinated biphenyl

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chemicals (PCBs) (see definition in 40 CFR 761.3), where such chemical substances are present in a concentration of less than or equal to 50 ppm (by weight or volume).

(d) Any person who exports or intends to export PCBs or PCB articles (see definition in 40 CFR 761.3), for any purpose other than disposal, shall notify EPA of such intent or exportation under TSCA section 12(b), except as specified in §707.60(c)(3). PCBs and PCB articles have the definitions published in 40 CFR 761.3.

(e) Any person who would be prohibited by a TSCA section 5 or 6 regulation from exporting a chemical substance or mixture, but who is granted an exemption by EPA to export that chemical substance or mixture, shall notify EPA under TSCA section 12(b) of such intent to export or exportation.

(f) Failure to comply with TSCA section 12(b) as set forth in this part will be considered a violation of TSCA section 15(3), and will subject the exporter to the penalty, enforcement, and seizure provisions of TSCA sections 16 and 17.

[45 FR 82850, Dec. 16, 1980, as amended at 71 FR 66244, Nov. 14, 2006; 71 FR 68751, Nov. 28, 2006]

§ 707.63 Definitions.

The definitions set forth in the Toxic Substances Control Act, section 3, apply for this part. In addition, the following abbreviations and definitions are provided for purposes of this rule:

(a) *EPA* means the Environmental Protection Agency.

(b) *Exporter* means the person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the chemical substance or mixture to a destination out of the customs territory of the United States.

(c) *Regulated chemical* means any chemical substance or mixture for which export notice is required under §707.60.

(d) *TSCA* means the Toxic Substances Control Act.

§ 707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters

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must notify EPA of their export or intended export of each subject chemical substance or mixture for which export notice is required under §707.60 in accordance with the following:

(1) The notice must be in writing;

(2)(i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must only be for the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b). Under this paragraph, notice of export to a particular country is not required if an exporter previously submitted to EPA a notice of export to that country prior to January 16, 2007.

(3) The notice must be postmarked within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

(b) If the EPA action that prompts the notice is a proposed rule, the requirement to submit export notices to EPA shall begin thirty days after publication of the action in the FEDERAL REGISTER.

(c) Notices shall be marked “TSCA Section 12(b) Notice” and sent to EPA by mail or delivered by hand or courier. Send notices by mail to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001 (Attention: TSCA Section 12(b) Notice). Hand delivery of TSCA section 12(b) notices