

## Bureau of Industry and Security, Commerce

## § 700.74

years of age at the person's last known dwelling or place of business.

(2) Service upon other than an individual may be made by serving a partner, corporate officer, or a managing or general agent authorized by appointment or by law to accept service of process. If an agent is served, a copy of the document shall be mailed to the person named in the document.

(3) Any individual 18 years of age or older may serve an administrative subpoena, demand for information, or inspection authorization. When personal service is made, the individual making the service shall prepare an affidavit as to the manner in which service was made and the identity of the person served, and return the affidavit, and in the case of subpoenas, the original document, to the issuing officer. In case of failure to make service, the reasons for the failure shall be stated on the original document.

[79 FR 47570, Aug. 14, 2014]

### § 700.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of the Department of Commerce to have access to any premises or source of information necessary to the administration or enforcement of the Defense Production Act or this part, the Department of Commerce may seek compulsory process. Compulsory process means the institution of appropriate legal action, including *ex parte* application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Director of the Office of Strategic Industries and Economic Security, U.S. Department of Commerce, in consultation with the Chief Counsel for Industry and Security, U.S. Department of Commerce, there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other cir-

cumstances exist which make such process desirable or necessary.

[49 FR 30414, July 30, 1984. Redesignated at 54 FR 601, Jan. 9, 1989, as amended at 63 FR 31924, June 11, 1998; 67 FR 45633, July 10, 2002; 71 FR 39528, July 13, 2006; 79 FR 47570, Aug. 14, 2014]

### § 700.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, the Department of Commerce may inform the person in writing where compliance with the requirements of the Defense Production Act, the Selective Service Act and related statutes, or this part were not met.

(b) In cases where the Department of Commerce determines that failure to comply with the provisions of the Defense Production Act, the Selective Service Act and related statutes, or this part was inadvertent, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willful violation of the Defense Production Act, this part, or an official action.

[79 FR 47570, Aug. 14, 2014]

### § 700.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, the priorities provisions of the Selective Service Act and related statutes or this part is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. The maximum penalty provided by the Defense Production Act is a \$10,000 fine, or one year in prison, or both. The maximum penalty provided by the Selective Service Act is a \$50,000 fine, or three years in prison, or both.

(b) The government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act, this part, or an official action.

(c) In order to secure the effective enforcement of the Defense Production Act, this part, and official actions, the

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following are prohibited (see section 704 of the Defense Production Act; see also, for example, sections 2 and 371 of Title 18 United States Code):

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this part, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this part, or an official action.

(3) No person shall deliver any item if the person knows or has reason to believe that the item will be accepted, re-delivered, held, or used in violation of the Defense Production Act, this part, or an official action. In such instances, the person must immediately notify the Department of Commerce that, in accordance with this section, delivery has not been made.

[79 FR 47571, Aug. 14, 2014]

### § 700.75 Compliance conflicts.

If compliance with any provision of the Defense Production Act, the Selective Service Act and related statutes, this regulation, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, this regulation, or an official action, the person must immediately notify the Department of Commerce for resolution of the conflict.

[49 FR 30414, July 30, 1984. Redesignated at 54 FR 601, Jan. 9, 1989, as amended at 63 FR 31924, June 11, 1998]

## Subpart K—Adjustments, Exceptions, and Appeals

### § 700.80 Adjustments or exceptions.

(a) A person may submit a request to the Office of Strategic Industries and Economic Security, U.S. Department of Commerce, for an adjustment or exception on the ground that:

(1) A provision of this part or an official action results in an undue or exceptional hardship on that person not suffered generally by others in similar situations and circumstances; or

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(2) The consequence of following a provision of this part or an official action is contrary to the intent of the Defense Production Act, the Selective Service Act and related statutes, or this part.

(b) Each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to the provision of this part or official action from which adjustment is sought and a full and precise statement of the reasons why relief should be provided.

(c) The submission of a request for adjustment or exception shall not relieve any person from the obligation of complying with the provisions of this part or official action in question while the request is being considered unless such interim relief is granted in writing by the Office of Strategic Industries and Economic Security. The Office of Strategic Industries and Economic Security shall respond to requests for adjustment of or exceptions to compliance with the provisions of this part or an official action within 25 (twenty-five) days, not including Saturdays, Sundays or Government holidays, of the date of receipt.

(d) A decision of the Office of Strategic Industries and Economic Security under this section may be appealed to the Assistant Secretary for Export Administration, U.S. Department of Commerce. (For information on the appeal procedure, see § 700.81.)

[49 FR 30414, July 30, 1984. Redesignated at 54 FR 601, Jan. 9, 1989, as amended at 63 FR 31924, 31925, June 11, 1998; 79 FR 47571, Aug. 14, 2014]

### § 700.81 Appeals.

(a) Any person who has had a request for adjustment or exception denied by the Office of Strategic Industries and Economic Security under § 700.80, may appeal to the Assistant Secretary for Export Administration, Department of Commerce, who shall review and reconsider the denial. Such appeals should be submitted to the Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Room 3886, Washington, DC 20230, Ref: DPAS Appeals.