

**Bur. of Industry and Security, Comm.****§ 712.9**

correspondence) and will also forward the amended declaration to the OPCW to ensure that they also have current information on file regarding your facility or trading company.

NOTE 2 TO § 712.7(c): You may notify BIS of change in ownership via a letter to the address given in § 711.6 of the CWCR. If you are submitting an amended declaration or report, use Form B to address details regarding the sale of the declared facility or trading company.

NOTE 3 TO § 712.7(c): For ownership changes, the declared facility or trading company will maintain its original U.S. Code Number, unless the facility or trading company is sold to multiple owners, at which time BIS will assign new U.S. Code Numbers for the new facilities.

(d) *Inspection-related amendments.* If, following completion of an inspection (see parts 716 and 717 of the CWCR), you are required to submit an amended declaration based on the final inspection report, BIS will notify you in writing of the information that will be required pursuant to §§ 716.10 and 717.5 of the CWCR. You must submit an amended declaration to BIS no later than 45 days following your receipt of the BIS post-inspection letter.

(e) *Non-substantive changes.* If, subsequent to the submission of your declaration or report to BIS, you discover one or more non-substantive typographical errors in your declaration or report, you are not required to submit an amended declaration or report to BIS. Instead, you may correct these errors in a subsequent declaration or report.

(f) *Documentation required for amended declarations or reports.* If you are required to submit an amended declaration or report to BIS pursuant to paragraph (a), (b), (c), or (d) of this section, you must submit either:

(1) A letter containing all of the corrected information required, in accordance with the provisions of this section, to amend your declaration or report; or

(2) Both of the following:

(i) A new Certification Form (*i.e.*, Form 1-1); and

(ii) The specific forms (*e.g.*, annual declaration on past activities) containing the corrected information required, in accordance with the provi-

sions of this part 712, to amend your declaration or report.

**§ 712.8 Declarations and reports returned without action by BIS.**

If you submit a declaration or report and BIS determines that the information contained therein is not required by the CWCR, BIS will return the original declaration or report to you, without action, accompanied by a letter explaining BIS's decision. In order to protect your confidential business information, BIS will not maintain a copy of any declaration or report that is returned without action (RWA). However, BIS will maintain a copy of the RWA letter.

**§ 712.9 Deadlines for submission of Schedule 1 declarations, reports, advance notifications, and amendments.**

Declarations, reports, advance notifications, and amendments required under this part must be postmarked by the appropriate date identified in supplement no. 2 to this part 712. Required declarations, reports, advance notifications, and amendments include:

(a) Annual declaration on past activities (Schedule 1 chemical production during the previous calendar year);

(b) Annual report on exports and imports of Schedule 1 chemicals from facilities, trading companies, and other persons (during the previous calendar year);

(c) Combined declaration and report (production of Schedule 1 chemicals, as well as exports or imports of the same or different Schedule 1 chemicals, by a declared facility during the previous calendar year);

(d) Annual declaration on anticipated activities (anticipated production of Schedule 1 chemicals in the next calendar year);

(e) Advance notification of any export to or import from another State Party;

(f) Initial declaration of a new Schedule 1 chemical production facility; and

(g) Amended declaration or report, including combined declaration and report.

## SUPPLEMENT NO. 1 TO PART 712—SCHEDULE 1 CHEMICALS

	CAS registry No.
<b>A. Toxic Chemicals:</b>	
1. <i>Family:</i> O-Alkyl( $\leq C_{10}$ , incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)- phosphonofluorides Not limited to the following examples: Sarin: O-Isopropyl methylphosphonofluoride ..... Soman: O-Pinacolyl methylphosphonofluoride .....	107-44-8 96-64-0
2. <i>Family:</i> O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanides Not limited to the following example: Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanide .....	77-81-6
3. <i>Family:</i> O-Alkyl (H or $\leq C_{10}$ , 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 Not limited to the following example: VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate .....	50782-69-9
4. Sulfur mustards:	
2-Chloroethylchloromethylsulfide .....	2625-76-5
Mustard gas: Bis(2-chloroethyl)sulfide .....	505-60-2
Bis(2-chloroethylthio)methane .....	63869-13-6
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane .....	3563-36-8
1,3-Bis(2-chloroethylthio)-n-propane .....	63905-10-2
1,4-Bis(2-chloroethylthio)-n-butane .....	142868-93-7
1,5-Bis(2-chloroethylthio)-n-pentane .....	142868-94-8
Bis(2-chloroethylthiomethyl)ether .....	63918-90-1
O-Mustard: Bis(2-chloroethylthioethyl)ether .....	63918-89-8
5. Lewisites:	
Lewisite 1: 2-Chlorovinylidichloroarsine .....	541-25-3
Lewisite 2: Bis(2-chlorovinyl)chloroarsine .....	40334-69-8
Lewisite 3: Tris(2-chlorovinyl)arsine .....	40334-70-1
6. Nitrogen mustards:	
HN1: Bis(2-chloroethyl)ethylamine .....	538-07-8
HN2: Bis(2-chloroethyl)methylamine .....	51-75-2
HN3: Tris(2-chloroethyl)amine .....	555-77-1
7. Saxitoxin .....	35523-89-8
8. Ricin .....	9009-86-3
13. <i>Family:</i> P-alkyl (H or $\leq C_{10}$ , incl. cycloalkyl) N-(1-dialkyl( $\leq C_{10}$ , incl. cycloalkyl)amino)alkylidene(H or $\leq C_{10}$ , incl. cycloalkyl) phosphonamidofluorides and corresponding alkylated or protonated salts Not limited to the following examples: N-(1-(di-n-decylamino)-n-decylidene)-P-decylphosphonamidic fluoride .....	2387495-99-8
Methyl-(1-(diethylamino)ethylidene)phosphonamidofluoride .....	2387496-12-8
14. <i>Family:</i> O-alkyl (H or $\leq C_{10}$ , incl. cycloalkyl) N-(1-dialkyl( $\leq C_{10}$ , incl. cycloalkyl)amino)alkylidene(H or $\leq C_{10}$ , incl. cycloalkyl) phosphoramidofluorides and corresponding alkylated or protonated salts Not limited to the following examples: O-n-Decyl N-(1-(di-n-decylamino)-n-decylidene)phosphoramidofluoride .....	2387496-00-4
Methyl (1-(diethylamino)ethylidene)phosphoramidofluoride .....	2387496-04-8
Ethyl (1-(diethylamino)ethylidene)phosphoramidofluoride .....	2387496-06-0
15. Methyl-(bis(diethylamino)methylene)phosphonamidofluoride .....	2387496-14-0
16. Carbamates (quaternaries and bisquaternaries of dimethylcarbamoyloxyypyridines)	
16.1. <i>Family:</i> Quaternaries of dimethylcarbamoyloxyypyridines: 1-[N,N-dialkyl( $\leq C_{10}$ )-N-(n-(hydroxyl, cyano, acetoxy)alkyl( $\leq C_{10}$ )) ammonio]-n-[N-(3-dimethylcarbamoyloxy-picolinyl)-N,N-dialkyl( $\leq C_{10}$ ) ammonio]decane dibromide (n=1-8) Not limited to the following example: 1-[N,N-dimethyl-N-(2-hydroxy)ethyl]ammonio]-10-[N-(3-dimethylcarbamoyloxy-picolinyl)-N,N-dimethylammonio]decane dibromide .....	77104-62-2
16.2. <i>Family:</i> Bisquaternaries of dimethylcarbamoyloxyypyridines: 1,n-Bis[N-(3-dimethylcarbamoyloxy-picolinyl)-N,N-dialkyl( $\leq C_{10}$ ) ammonio]-alkane-(2,(n-1)dione) dibromide (n=2-12) Not limited to the following example: 1,10-Bis[N-(3-dimethylcarbamoyloxy-picolinyl)-N-ethyl-N-methylammonio]decane-2,9-dione dibromide .....	77104-00-8
<b>B. Precursors:</b>	
9. <i>Family:</i> Alkyl (Me, Et, n-Pr or i-Pr) phosphoryldifluorides Not limited to the following example: DF: Methylphosphoryldifluoride .....	676-99-3
10. <i>Family:</i> O-Alkyl (H or $\leq C_{10}$ , incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts Not limited to the following example: QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite .....	57856-11-8 1445-76-7
11. Chlorosarin: O-Isopropyl methylphosphonochloridate .....	7040-57-5
12. Chlorosoman: O-Pinacolyl methylphosphonochloridate .....	

Notes to Supplement No. 1

**Note 1:** Note that the following Schedule 1 chemicals are controlled for export purposes under the Export Administration Regulations (see part 774 of the EAR, the Commerce Control List): Saxitoxin (35523-89-8) and Ricin (9009-86-3).

**Note 2:** All Schedule 1 chemicals not listed in Note 1 to this Supplement are controlled for export purposes by the Directorate of Defense Trade Controls of the Department of State under the International Traffic in Arms Regulations (22 CFR parts 120 through 130).

**Bur. of Industry and Security, Comm.****§ 713.1**

**Note 3:** The numerical sequence of the "Schedule 1" Toxic Chemicals and Precursors is not consecutive so as to align with the December 23, 2019, consolidated textual changes to "Schedule 1" of the Annex on Chemicals to the Chemical Weapons Convention (CWC), which reflect the decisions adopted by the CWC Conference of the States Parties in November 2019.

[71 FR 24929, Apr. 27, 2006, as amended at 86 FR 941, Jan. 7, 2021]

**SUPPLEMENT NO. 2 TO PART 712—DEADLINES FOR SUBMISSION OF SCHEDULE 1 DECLARATIONS, ADVANCE NOTIFICATIONS, REPORTS, AND AMENDMENTS**

Declarations, advance notifications and reports	Applicable forms	Due dates
Annual Declaration on Past Activities (previous calendar year)—Declared facility (past production).	Certification, 1–1, 1–2, 1–2A, 1–2B, A (as appropriate), B (optional).	February 28th of the year following any calendar year in which more than 100 grams aggregate of Schedule 1 chemicals were produced,
Annual report on exports and imports (previous calendar year) (facility, trading company, other persons).	Certification, 1–1, 1–3, A (as appropriate), B (optional).	February 28th of the year following any calendar year in which Schedule 1 chemicals were exported or imported.
Combined Declaration and Report .....	Certification, 1–1, 1–2, 1–2A, 1–2B, 1–3, A (as appropriate), B (optional).	February 28th of the year following any calendar year in which Schedule 1 chemicals were produced, exported, or imported.
Annual Declaration of Anticipated Activities (next calendar year).	Certification, 1–1, 1–4, A (as appropriate), B (optional).	September 3rd of the year prior to any calendar year in which Schedule 1 activities are anticipated to occur.
Advance Notification of any export to or import from another State Party.	Notify on letterhead. See § 712.6 of the CWCR.	45 calendar days prior to any export or import of Schedule 1 chemicals, except 3 days prior to export or import of 5 milligrams or less of saxitoxin for medical/diagnostic purposes.
Initial Declaration of a new Schedule 1 facility (technical description).	Certification, 1–1, A (as appropriate), B (optional).	200 calendar days prior to producing in excess of 100 grams aggregate of Schedule 1 chemicals.
Amended Declaration .....	Certification, 1–1, 1–2, 1–2A.	
—Chemicals/Activities: § 712.7(a).	.....	—15 calendar days after change in information.
—Company information: § 712.7(c).	.....	—30 calendar days after change in information.
—Post-inspection letter: § 712.7(d).	.....	—45 calendar days after receipt of letter.
Amended Report § 712.7(b) .....	Certification, 1–1, 1–3, A (as appropriate), B (optional).	—15 calendar days after change in information.
Amended Combined Declaration & Report.	Certification, 1–1, 1–2, 1–2A, 1–3, A (as appropriate), B (optional).	—15 calendar days after change in information.

**PART 713—ACTIVITIES INVOLVING SCHEDULE 2 CHEMICALS**

Sec.

- 713.1 Prohibition on exports and imports of Schedule 2 chemicals to and from States not Party to the CWC.
- 713.2 Annual declaration requirements for plant sites that produce, process or consume Schedule 2 chemicals in excess of specified thresholds.
- 713.3 Annual declaration and reporting requirements for exports and imports of Schedule 2 chemicals.
- 713.4 Advance declaration requirements for additionally planned production, processing or consumption of Schedule 2 chemicals.
- 713.5 Amended declaration or report.
- 713.6 Declarations and reports returned without action by BIS.
- 713.7 Deadlines for submission of Schedule 2 declarations, reports, and amendments.

**SUPPLEMENT NO. 1 TO PART 713—SCHEDULE 2 CHEMICALS**

**SUPPLEMENT NO. 2 TO PART 713—DEADLINES FOR SUBMISSION OF SCHEDULE 2 DECLARATIONS, REPORTS, AND AMENDMENTS**

**AUTHORITY:** 22 U.S.C. 6701 *et seq.*; 50 U.S.C. 1601 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938 59 FR 59099, 3 CFR, 1994 Comp., p. 950, as amended by E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13128, 64 FR 36703, 3 CFR 1999 Comp., p. 199.

**SOURCE:** 71 FR 24929, Apr. 27, 2006, unless otherwise noted.

**§ 713.1 Prohibition on exports and imports of Schedule 2 chemicals to and from States not Party to the CWC.**

- (a) You may not export any Schedule 2 chemical (see supplement no. 1 to this part) to any destination or import any

## § 713.2

Schedule 2 chemical from any destination other than a State Party to the Convention. See supplement no. 1 to part 710 of the CWCR for a list of States that are party to the Convention.

NOTE TO § 713.1(a): See § 742.18 of the Export Administration Regulations (EAR) (15 CFR part 742) for prohibitions that apply to exports of Schedule 2 chemicals to States not Party to the CWC.

(b) Paragraph (a) of this section does not apply to:

(1) The export or import of a Schedule 2 chemical to or from a State not Party to the CWC by a department, agency, or other entity of the United States, or by any person, including a member of the Armed Forces of the United States, who is authorized by law, or by an appropriate officer of the United States to transfer or receive the Schedule 2 chemical;

(2) Mixtures containing Schedule 2A chemicals, if the concentration of each Schedule 2A chemical in the mixture is 1% or less by weight (note, however, that such mixtures may be subject to the regulatory requirements of other federal agencies);

(3) Mixtures containing Schedule 2B chemicals if the concentration of each Schedule 2B chemical in the mixture is 10% or less by weight (note, however, that such mixtures may be subject to the regulatory requirements of other federal agencies); or

(4) Products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

### § 713.2 Annual declaration requirements for plant sites that produce, process or consume Schedule 2 chemicals in excess of specified thresholds.

(a) *Declaration of production, processing or consumption of Schedule 2 chemicals for purposes not prohibited by the CWC*—(1) *Quantities of production, processing or consumption that trigger declaration requirements*. You must complete the forms specified in paragraph (b) of this section if you have been or will be involved in the following activities:

(i) *Annual declaration on past activities*. (A) You produced, processed or

## 15 CFR Ch. VII (1-1-25 Edition)

consumed at one or more plants on your plant site during any of the previous three calendar years, a Schedule 2 chemical in excess of any of the following declaration threshold quantities:

(1) 1 kilogram of chemical BZ: 3-Quinuclidinyl benzilate (see Schedule 2, paragraph A.3 in supplement no. 1 to this part);

(2) 100 kilograms of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene or 100 kilograms of chemical Amiton: 0,0-Diethyl S-[2-(diethylamino) ethyl] phosphorothiolate and corresponding alkylated or protonated salts (see Schedule 2, paragraphs A.1 and A.2 in supplement no. 1 to this part); or

(3) 1 metric ton of any chemical listed in Schedule 2, Part B (see supplement no. 1 to this part).

(B) In order to trigger a declaration requirement for a past activity (i.e., production, processing or consumption) involving a Schedule 2 chemical, a plant on your plant site must have exceeded the applicable declaration threshold for that particular activity during one or more of the previous three calendar years. For example, if a plant on your plant site produced 800 kilograms of thiadiglycol and consumed 300 kilograms of the same Schedule 2 chemical, during the previous calendar year, you would not have a declaration requirement based on these activities, because neither activity at your plant would have exceeded the declaration threshold of 1 metric ton for that Schedule 2 chemical. However, a declaration requirement would apply if an activity involving a Schedule 2 chemical at the plant exceeded the declaration threshold in an earlier year (i.e., during the course of any other calendar year within the past three calendar years), as indicated in the example provided in the note to this paragraph.

NOTE TO § 713.2(a)(1)(i)(B): To determine whether or not you have an annual declaration on past activities requirement for Schedule 2 chemicals, you must determine whether you produced, processed or consumed a Schedule 2 chemical above the applicable threshold at one or more plants on your plant site in any one of the three previous calendar years. For example, for the

**Bur. of Industry and Security, Comm.****§ 713.2**

2004 annual declaration on past activities period, if you determine that one plant on your plant site produced greater than 1 kilogram of the chemical BZ in calendar year 2002, and no plants on your plant site produced, processed or consumed any Schedule 2 chemical above the applicable threshold in calendar years 2003 or 2004, you still have a declaration requirement under this paragraph for the previous calendar year (2004). However, you must only declare on Form 2-3 (question 2-3.1), production data for calendar year 2004. You would declare "0" production because you did not produce BZ above the applicable threshold in calendar year 2004. Since the plant site did not engage in any other declarable activity (i.e., consumption, processing) in the 2002-2004 declaration period, you would leave blank questions 2-3.2 and 2-3.3 on Form 2-3. Note that declaring a "0" production quantity for 2004, as opposed to leaving the question blank, permits BIS to distinguish the activity that triggered the declaration requirement from activities that were not declarable during that period.

(ii) *Annual declaration on anticipated activities.* You anticipate that you will produce, process or consume at one or more plants on your plant site during the next calendar year, a Schedule 2 chemical in excess of the applicable declaration threshold set forth in paragraphs (a)(1)(i)(A)(1) through (3) of this section.

NOTE TO § 713.2(a)(1)(ii): A null "0" declaration is not required if you do not plan to produce, process or consume a Schedule 2 chemical in the next calendar year.

(2) *Schedule 2 chemical production.* (i) For the purpose of determining Schedule 2 production, you must include all steps in the production of a chemical in any units within the same plant through chemical reaction, including any associated processes (e.g., purification, separation, extraction, distillation, or refining) in which the chemical is not converted into another chemical. The exact nature of any associated process (e.g., purification, etc.) is not required to be declared.

(ii) For the purpose of determining if a Schedule 2 chemical is subject to declaration, you must declare an intermediate Schedule 2 chemical, but not a transient intermediate Schedule 2 chemical.

(3) *Mixtures containing a Schedule 2 chemical—(i) Mixtures that must be counted.* When determining the total quantity of a Schedule 2 chemical pro-

duced, processed or consumed at a plant on your plant site, you must count the quantity of each Schedule 2 chemical in a mixture, in the following circumstances:

(A) *Schedule 2A chemicals in mixtures.* The concentration of each Schedule 2A chemical in the mixture is 10% or more by volume or weight, whichever yields the lesser percentage;

(B) *Schedule 2B chemicals in mixtures.* The concentration of each Schedule 2B chemical in the mixture is 30% or more by volume or weight, whichever yields the lesser percentage.

(ii) *How to count the quantity of each Schedule 2 chemical in a mixture.* You must count, separately, the quantity of each Schedule 2A or Schedule 2B chemical in a mixture when determining the total quantity of a Schedule 2 chemical produced, processed or consumed at a plant on your plant site. Do not count the total weight of a mixture.

(iii) *Determining declaration requirements for production, processing and consumption.* If the total quantity of a Schedule 2 chemical produced, processed or consumed at a plant on your plant site, including mixtures that contain 10% or more concentration of a Schedule 2A chemical or 30% or more concentration of a Schedule 2B chemical, exceeds the applicable declaration threshold set forth in paragraphs (a)(1)(i)(A)(1) through (3) of this section, you have a declaration requirement and must separately declare each Schedule 2A or Schedule 2B chemical.

NOTE 1 TO § 713.2(a)(3)—EXAMPLE: If, during the past calendar year, a plant on your plant site produced, processed, or consumed a mixture containing 130 kilograms of PFIB with a concentration of 12%, the total amount of PFIB produced, processed, or consumed at that plant for CWCR purposes would be 130 kilograms, which exceeds the declaration threshold of 100 kilograms for that Schedule 2A chemical. Consequently, you must declare 130 kilograms of production, processing, or consumption of PFIB at that plant site during the past calendar year.

NOTE 2 TO § 713.2(a)(3)—EXAMPLE: If, during the past calendar year, a plant on your plant site produced, processed, or consumed a mixture containing 130 kilograms of PFIB with a concentration of 8%, the total amount of PFIB produced, processed, or consumed at that plant for CWCR purposes would be 0 kilograms, which would not trigger a declaration requirement. This outcome is based

## § 713.2

on the fact that the concentration of PFIB in the mixture is less than 10% and, for CWCR purposes would not have to be "counted."

NOTE 3 TO § 713.2(a)(3)—EXAMPLE: If, during the past calendar year, a plant on your plant site produced a mixture containing 300 kilograms of thiodiglycol with a concentration of 32% and also produced 800 kilograms of pure thiodiglycol, the total amount of thiodiglycol produced at that plant for CWCR purposes would be 1,100 kilograms, which exceeds the declaration threshold of 1 metric ton for that Schedule 2B chemical. Consequently, you must declare production of thiodiglycol at that plant site during the past calendar year.

NOTE 4 TO § 713.2(a)(3)—EXAMPLE: If, during the past calendar year, a plant on your plant site processed a mixture containing 300 kilograms of thiodiglycol with a concentration of 25% and also processed 800 kilograms of pure thiodiglycol, the total amount of thiodiglycol processed at that plant for CWCR purposes would be 800 kilograms and would not trigger a declaration requirement. This outcome is based on the fact that the concentration of thiodiglycol in the mixture is less than 30% and, therefore, would not have to be "counted" and added to the 800 kilograms of pure thiodiglycol processed at that plant during the past calendar year.

(b) *Types of declaration forms to be used*—(1) *Annual declaration on past activities*. You must complete the Certification Form and Forms 2-1, 2-2, 2-3, 2-3A, and Form A if one or more plants on your plant site produced, processed or consumed more than the applicable threshold quantity of a Schedule 2 chemical described in paragraphs (a)(1)(i)(A)(1) through (3) of this section in any of the three previous calendar years. Form B is optional. If you are subject to annual declaration requirements, you must include data for the previous calendar year only.

(2) *Annual declaration on anticipated activities*. You must complete the Certification Form and Forms 2-1, 2-2, 2-3, 2-3A, 2-3C, and Form A if you plan to produce, process, or consume at any plant on your plant site a Schedule 2 chemical above the applicable threshold set forth in paragraphs (a)(1)(i)(A)(1) through (3) of this section during the following calendar year. Form B is optional.

(c) *Quantities to be declared*—(1) *Production, processing and consumption of a Schedule 2 chemical above the declaration threshold*—(i) *Annual declaration on past*

## 15 CFR Ch. VII (1-1-25 Edition)

*activities*. If you are required to complete forms pursuant to paragraph (a)(1)(i) of this section, you must declare the aggregate quantity resulting from each type of activity (production, processing or consumption) from each plant on your plant site that exceeds the applicable threshold for that Schedule 2 chemical. Do not include in these aggregate production, processing, and consumption quantities any data from plants on the plant site that did not individually produce, process or consume a Schedule 2 chemical in amounts greater than the applicable threshold. For example, if a plant on your plant site produced a Schedule 2 chemical in an amount greater than the applicable declaration threshold during the previous calendar year, you would have to declare only the production quantity from that plant, provided that the total amount of the Schedule 2 chemical processed or consumed at the plant did not exceed the applicable declaration threshold during any one of the previous three calendar years. If in the previous calendar year your production, processing and consumption activities all were below the applicable declaration threshold, but your declaration requirement is triggered because of production activities occurring in an earlier year, you would declare "0" only for the declared production activities.

(ii) *Annual declaration on anticipated activities*. If you are required to complete forms pursuant to paragraph (a)(1)(ii) of this section, you must declare the aggregate quantity of any Schedule 2 chemical that you plan to produce, process or consume at any plant(s) on your plant site above the applicable thresholds set forth in paragraphs (a)(1)(i)(A)(1) through (3) of this section during the next calendar year. Do not include in these anticipated aggregate production, processing, and consumption quantities any data from plants on the plant site that you do not anticipate will individually produce, process or consume a Schedule 2 chemical in amounts greater than the applicable thresholds.

(2) *Rounding*. For the chemical BZ, report quantities to the nearest hundredth of a kilogram (10 grams). For PFIB and the Amiton family, report

**Bur. of Industry and Security, Comm.****§ 713.3**

quantities to the nearest 1 kilogram. For all other Schedule 2 chemicals, report quantities to the nearest 10 kilograms.

(d) *“Declared” Schedule 2 plant site.* A plant site that submitted a declaration pursuant to paragraph (a)(1) of this section is a “declared” plant site.

(e) *Declared Schedule 2 plant sites subject to initial and routine inspections.* A “declared” Schedule 2 plant site is subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons if it produced, processed or consumed in any of the three previous calendar years, or is anticipated to produce, process or consume in the next calendar year, in excess of ten times the applicable declaration threshold set forth in paragraphs (a)(1)(i)(A)(1) through (3) of this section (see part 716 of the CWCR). A “declared” Schedule 2 plant site that has received an initial inspection is subject to routine inspection.

[71 FR 24929, Apr. 27, 2006, as amended at 88 FR 42618, July 3, 2023]

**§ 713.3 Annual declaration and reporting requirements for exports and imports of Schedule 2 chemicals.**

(a) *Declarations and reports of exports and imports of Schedule 2 chemicals—(1) Declarations.* A Schedule 2 plant site that is declared because it produced, processed or consumed a Schedule 2 chemical at one or more plants above the applicable threshold set forth in paragraph (b) of this section, and also exported from or imported to the plant site that same Schedule 2 chemical above the applicable threshold, must submit export and import information as part of its declaration.

(2) *Reports.* The following persons must submit a report if they individually exported or imported a Schedule 2 chemical above the applicable threshold indicated in paragraph (b) of this section:

(i) A declared plant site that exported or imported a Schedule 2 chemical that was different than the Schedule 2 chemical produced, processed or consumed at one or more plants at the plant site above the applicable declaration threshold;

- (ii) An undeclared plant site;
- (iii) A trading company;

(iv) Any other person subject to the CWCR.

NOTE TO § 713.3(a)(1) AND (a)(2)(i): A declared Schedule 2 plant site may need to declare exports or imports of Schedule 2 chemicals that it produced, processed or consumed above the applicable threshold and also report exports or imports of different Schedule 2 chemicals that it did not produce, process or consume above the applicable threshold quantities. The report may be submitted to BIS either with or separately from the annual declaration on past activities (see § 713.3(d) of the CWCR).

NOTE TO § 713.3(a)(2): The U.S. Government will not submit to the OPCW company-specific information relating to the export or import of Schedule 2 chemicals contained in reports. The U.S. Government will add all export and import information contained in reports to export and import information contained in declarations to establish the U.S. national aggregate declaration on exports and imports.

NOTE TO § 713.3(a)(1) AND (2): Declared and undeclared plant sites must count, for declaration or reporting purposes, all exports from and imports to the *entire* plant site, not only from or to individual plants on the plant site.

(b) *Quantities of exports or imports that trigger a declaration or reporting requirement.* (1) You have a declaration or reporting requirement and must complete the forms specified in paragraph (d) of this section if you exported or imported a Schedule 2 chemical in excess of the following threshold quantities:

(i) 1 kilogram of chemical BZ: 3-Quinuclidinyl benzilate (See Schedule 2, paragraph A.3 included in supplement no. 1 to this part);

(ii) 100 kilograms of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene or 100 kilograms of Amiton: O,O Diethyl S-[2(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts (see Schedule 2, paragraphs A.1 and A.2 included in supplement no.1 to this part); or

(iii) 1 metric ton of any chemical listed in Schedule 2, Part B (see supplement no.1 to this part).

(2) *Mixtures containing a Schedule 2 chemical—(i) Mixtures that must be counted.* The quantity of each Schedule 2 chemical contained in a mixture must be counted for the declaration or

### § 713.3

reporting of an export or import, in the following circumstances:

(A) *Schedule 2A chemicals in mixtures.* The concentration of each Schedule 2A chemical in the mixture is 10% or more by volume or weight, whichever yields the lesser percentage;

(B) *Schedule 2B chemicals in mixtures.* The concentration of each Schedule 2B chemical in the mixture is 30% or more by volume or weight, whichever yields the lesser percentage.

(ii) *How to count the quantity of each Schedule 2 chemical in a mixture.* You must count, separately, the quantity of each Schedule 2A or Schedule 2B chemical in a mixture when determining the total quantity of a Schedule 2 chemical that was exported from or imported to a declared plant site, or individually exported or imported, above the applicable threshold set forth in paragraphs (b)(1)(i) through (iii) of this section. Do not count the total weight of a mixture.

(iii) *Mixture concentration thresholds apply only for declaration and reporting purposes.* The concentration thresholds for Schedule 2A and Schedule 2B chemical mixtures set forth in paragraph (b)(2)(i) of this section apply only for the declaration and reporting purposes described in the CWCR. These thresholds do not apply for purposes of determining whether the export of your mixture to a non-State Party requires an End-Use Certificate. Nor do they apply for purposes of determining whether you need to obtain an export license from BIS (see § 742.2, § 742.18 and § 745.2 of the Export Administration Regulations (15 CFR parts 730 through 774)) or from the Department of State (see the International Traffic in Arms Regulations (22 CFR parts 120 through 130)).

NOTE 1 TO § 713.3(b)(2)—EXAMPLE: If, during the past calendar year, your plant site exported or imported a mixture containing 3 kilograms of Amiton with a concentration of 12%, the total amount of Amiton exported or imported for CWCR purposes is 3 kilograms, which exceeds the declaration threshold of 1 kilogram for that Schedule 2A chemical. Consequently, you must declare 3 kilograms of export or import at that plant site during the past calendar year.

NOTE 2 TO § 713.2(b)(2)—EXAMPLE: If, during the past calendar year, your plant site exported or imported a mixture containing 3

### 15 CFR Ch. VII (1-1-25 Edition)

kilograms of Amiton with a concentration of 8%, the total amount of Amiton exported or imported for CWCR purposes would be 0 kilograms and would not trigger a declaration requirement. This outcome is based on the fact that the concentration of Amiton in the mixture is less than 10% and, therefore, would not have to be “counted.”

(c) *Declaration and reporting requirements*—(1) *Annual declaration on past activities.* A plant site described in paragraph (a)(1) of this section that has an annual declaration requirement for the production, processing, or consumption of a Schedule 2 chemical for the previous calendar year also must declare the export and/or import of that same Schedule 2 chemical if the amount exceeded the applicable threshold set forth in paragraph (b) of this section. The plant site must declare such export or import information as part of its annual declaration of past activities.

(2) *Annual report on exports and imports.* Declared plant sites described in paragraph (a)(2)(i) of this section, and undeclared plant sites, trading companies or any other person (described in paragraphs (a)(2)(ii) through (iv) of this section) subject to the CWCR that exported or imported a Schedule 2 chemical in a previous calendar year in excess of the applicable thresholds set forth in paragraph (b) of this section must submit an annual report on such exports or imports.

(d) *Types of declaration and reporting forms to be used*—(1) *Annual declaration on past activities.* If you are a declared Schedule 2 plant site, as described in paragraph (a)(1) of this section, you must complete Form 2-3B, in addition to the forms required by § 713.2(b)(1) of the CWCR, for each declared Schedule 2 chemical exported or imported above the applicable threshold in the previous calendar year.

(2) *Annual report on exports and imports.* (i) If you are a declared plant site, as described in paragraph (a)(2)(i) of this section, you may fulfill your annual reporting requirements by:

(A) Submitting, with your annual declaration on past activities, a Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional; or

**Bur. of Industry and Security, Comm.****§ 713.4**

(B) Submitting, *separately from* your annual declaration on past activities, a Certification Form, Form 2-1, and Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional.

(ii) If you are an undeclared plant site, trading company or any other person subject to the CWCR, you must complete the Certification Form, Form 2-1, and Form 2-3B for each Schedule 2 chemical you exported or imported above the applicable threshold. Attach Form A, as appropriate; Form B is optional.

(e) *Quantities to be declared—(1) Calculations.* If you exported from or imported to your plant site, trading company, or other location more than the applicable threshold of a Schedule 2 chemical in the previous calendar year, you must declare or report all exports and imports of that chemical by country of destination or country of origin, respectively, and indicate the total amount exported to or imported from each country.

(2) *Rounding.* For purposes of declaring or reporting exports and imports of a Schedule 2 chemical, you must total all exports and imports per calendar year per recipient or source and then round as follows: For the chemical BZ, the total quantity for each country of destination or country of origin (source) should be reported to the nearest hundredth of a kilogram (10 grams); for PFIB and Amiton and corresponding alkylated or protonated salts, the quantity for each destination or source should be reported to the nearest 1 kilogram; and for all other Schedule 2 chemicals, the total quantity for each destination or source should be reported to the nearest 10 kilograms.

[71 FR 24929, Apr. 27, 2006, as amended at 88 FR 42618, July 3, 2023]

**§ 713.4 Advance declaration requirements for additionally planned production, processing, or consumption of Schedule 2 chemicals.**

(a) *Declaration requirements for additionally planned activities.* (1) You must declare additionally planned production, processing, or consumption of Schedule 2 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 § 713.2(a)(1)(ii) of the CWCR will produce, process, or consume a Schedule 2 chemical above the applicable declaration threshold;

(ii) You plan to produce, process, or consume at a plant declared under § 713.2(a)(1)(ii) of the CWCR an additional Schedule 2 chemical above the applicable declaration threshold;

(iii) You plan an additional activity (production, processing, or consumption) at your declared plant above the applicable declaration threshold for a chemical declared under § 713.2(a)(1)(ii) of the CWCR;

(iv) You plan to increase the production, processing, or consumption of a Schedule 2 chemical by a plant declared under § 713.2(a)(1)(ii) of the CWCR from the amount exceeding the applicable declaration threshold to an amount exceeding the applicable inspection threshold (see § 716.1(b)(2) of the CWCR);

(v) You plan to change the starting or ending date of anticipated production, processing, or consumption declared under § 713.2(a)(1)(ii) of the CWCR by more than three months; or

(vi) You plan to increase your production, processing, or consumption of a Schedule 2 chemical by a declared plant site by 20 percent or more above that declared under § 713.2(a)(1)(ii) of the CWCR.

(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 (vi) of this section, you also should declare changes to your declaration relating to the following activities. You do not have to submit an additionally planned declaration if you are only changing the following non-quantitative activities:

(i) Changes to the plant's production capacity;

(ii) Changes or additions to the product group codes for the plant site or the plant(s);

(iii) Changes to the plant's activity status (i.e., dedicated, multipurpose, or other status);

## § 713.5

- (iv) Changes to the plant's multipurpose activities;
- (v) Changes to the plant site's status relating to domestic transfer of the chemical;
- (vi) Changes to the plant site's purposes for which the chemical will be produced, processed or consumed; or
- (vii) Changes to the plant site's status relating to exports of the chemical or the addition of new countries for export.

(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 2-1, 2-2, 2-3, and 2-3C as appropriate. Such forms are due to BIS at least 15 days prior to beginning the additional activity.

### § 713.5 Amended declaration or report.

In order for BIS to maintain accurate information on previously submitted plant site declarations, including information necessary to facilitate inspection notifications and activities or to communicate declaration or reporting requirements, amended declarations or reports will be required under the circumstances described in this section. This section applies only to annual declarations on past activities submitted for the three previous calendar years, annual reports on exports and imports for the previous calendar year or annual declarations on anticipated activities covering the current calendar year, unless specified otherwise in a final inspection report.

(a) *Changes to information that directly affect inspection of a declared plant site's Annual Declaration of Past Activities (ADPA) or Combined Annual Declaration and Report.* You must submit an amended declaration or report to BIS within 15 days of any change in the following information:

- (1) Types of Schedule 2 chemicals produced, processed, or consumed;
- (2) Quantities of Schedule 2 chemicals produced, processed, or consumed;
- (3) Activities involving Schedule 2 chemicals (production, processing, consumption);
- (4) End-use of Schedule 2 chemicals (e.g., additional end-use(s));

## 15 CFR Ch. VII (1-1-25 Edition)

- (5) Product group codes for Schedule 2 chemicals produced, processed, or consumed;
- (6) Production capacity for manufacturing a specific Schedule 2 chemical at particular plant site;
- (7) Exports or imports (e.g., changes in the types of Schedule 2 chemicals exported or imported or in the quantity, recipients, or sources of such chemicals);
- (8) Domestic transfers (e.g., changes in the types of Schedule 2 chemicals, types of destinations, or product group codes); and
- (9) Addition of new plant(s) for the production, processing, or consumption of Schedule 2 chemicals.

(b) *Changes to export or import information submitted in Annual Reports on Exports and Imports from undeclared plant sites, trading companies and U.S. persons.* You must submit an amended report or amended combined declaration and report to BIS within 15 days of any change in the following export or import information:

- (1) Types of Schedule 2 chemicals exported or imported (additional Schedule 2 chemicals);
- (2) Quantities of Schedule 2 chemicals exported or imported;
- (3) Destination(s) of Schedule 2 chemicals exported; and
- (4) Source(s) of Schedule 2 chemicals imported.

(c) *Changes to company and plant site information that must be maintained by BIS for the ADPA, Annual Declaration on Anticipated Activities (ADAA), and the Annual Report on Exports and Imports—*

- (1) *Internal company changes.* You must submit an amended declaration or report to BIS within 30 days of any change in the following information:
  - (i) Name of declaration/report point of contact (D-POC), including telephone number, facsimile number, and e-mail address;
  - (ii) Name(s) of inspection point(s) of contact (I-POC), including telephone number(s), facsimile number(s) and e-mail address(es);
  - (iii) Company name (see paragraph (c)(2) of this section for other company changes);
  - (iv) Company mailing address;
  - (v) Plant site name;

**Bur. of Industry and Security, Comm.****§ 713.5**

(vi) Plant site owner, including telephone number, and facsimile number;

(vii) Plant site operator, including telephone number, and facsimile number;

(viii) Plant name;

(ix) Plant owner, including telephone number, and facsimile number; and

(x) Plant operator, including telephone number and facsimile number.

(2) *Change in ownership of company, plant site, or plant.* If you sold or purchased a declared plant site, plant, or trading company you must submit an amended declaration or report to BIS, either before the effective date of the change or within 30 days after the effective date of the change. The amended declaration or report must include the following information:

(i) Information that must be submitted to BIS by the company selling a declared plant site:

(A) Name of seller (i.e., name of the company selling a declared plant site);

(B) Name of the declared plant site and U.S. Code Number for that plant site;

(C) Name of purchaser (i.e., name of the new company/owner purchasing a declared plant site) and identity of contact person for the purchaser, if known;

(D) Date of ownership transfer or change;

(E) Additional (e.g., unique) details on the sale of the declared plant site relevant to ownership or operational control over any portion of the declared plant site (e.g., whether the entire plant site or only a portion of the declared plant site has been sold to a new owner); and

(F) Details regarding whether the new owner will submit the next declaration or report for the entire calendar year during which the ownership change occurred, or whether the previous owner and new owner will submit separate declarations or reports for the periods of the calendar year during which each owned the plant site or trading company.

(1) If the new owner is responsible for submitting the declaration or report for the entire current year, it must have in its possession the records for the period of the year during which the previous owner owned the plant site.

(2) If the previous owner and new owner will submit separate declarations or reports for the periods of the calendar year during which each owned the plant site, and, if at the time of transfer of ownership, the previous owner's activities are not above the declaration or reporting thresholds set forth in § 713.2(a)(1)(i)(A)(1) through (3) and § 713.3(b)(1)(i) through (iii) of the CWCR, respectively, the previous owner and the new owner must still submit declarations to BIS with the below threshold quantities indicated.

(3) If the part-year declarations submitted by the previous owner and the new owner are not, when combined, above the declaration thresholds set forth in § 713.2(a)(1)(i)(A)(1) through (3) of the CWCR, BIS will return the declarations without action as set forth in § 713.6 of the CWCR.

(4) If part-year reports submitted by the previous owner and the new owner are not, when combined, above the thresholds in §§ 713.3(b)(1)(i) through (iii) of the CWCR, BIS will return the reports without action as set forth in § 713.6 of the CWCR.

(ii) Information that must be submitted to BIS by the company purchasing a declared plant site:

(A) Name of purchaser (i.e., name of individual or company purchasing a declared plant site);

(B) Mailing address of purchaser;

(C) Name of declaration point of contact (D-POC) for the purchaser, including telephone number, facsimile number, and e-mail address;

(D) Name of inspection point(s) of contact (I-POC) for the purchaser, including telephone number(s), facsimile number(s) and e-mail address(es);

(E) Name of the declared plant site and U.S. Code Number for that plant site;

(F) Location of the declared plant site;

(G) Owner of the declared plant site, including telephone number, and facsimile number;

(H) Operator of the declared plant site, including telephone number, and facsimile number;

(I) Name of plant(s) where Schedule 2 activities exceed the applicable declaration threshold;

## § 713.6

(J) Owner and operator of plant(s) where Schedule 2 activities exceed the applicable declaration threshold, including telephone numbers, and facsimile numbers;

(K) Location of the plant where Schedule 2 activities exceed the applicable declaration threshold; and

(L) Details on the next declaration or report submission on whether the new owner will submit the declaration or report for the entire calendar year during which the ownership change occurred, or whether the previous owner and new owner will submit separate declarations or reports for the periods of the calendar year during which each owned the plant site or trading company.

NOTE 1 TO § 713.5(c): You must submit an amendment to your most recently submitted declaration or report for declaring changes to internal company information (e.g., company name change) or changes in ownership of a facility or trading company that have occurred since the submission of this declaration or report. BIS will process the amendment to ensure current information is on file regarding the facility or trading company (e.g., for inspection notifications and correspondence) and will also forward the amended declaration to the OPCW to ensure that they also have current information on file regarding your facility or trading company.

NOTE 2 TO § 713.5(c): You may notify BIS of change in ownership via a letter to the address given in § 711.6 of the CWCR. If you are submitting an amended declaration or report, use Form B to address details regarding the sale of the declared plant site or trading company.

NOTE 3 TO § 713.5(c): For ownership changes, the declared facility or trading company will maintain its original U.S. Code Number, unless the plant site or trading company is sold to multiple owners, at which time BIS will assign new U.S. Code Numbers.

(d) *Inspection-related amendments.* If, following the completion of an inspection (see parts 716 and 717 of the CWCR), you are required to submit an amended declaration based on the final inspection report, BIS will notify you in writing of the information that will be required pursuant to §§ 716.10 and 717.5 of the CWCR. You must submit an amended declaration to BIS no later than 45 days following your receipt of BIS's post-inspection letter.

## 15 CFR Ch. VII (1-1-25 Edition)

(e) *Non-substantive changes.* If, subsequent to the submission of your declaration or report to BIS, you discover one or more non-substantive typographical errors in your declaration or report, you are not required to submit an amended declaration or report to BIS. Instead, you may correct these errors in a subsequent declaration or report.

(f) *Documentation required for amended declarations or reports.* If you are required to submit an amended declaration or report to BIS pursuant to paragraph (a), (b), (c), or (d) of this section, you must submit either:

(1) A letter containing all of the corrected information required, in accordance with the provisions of this section, to amend your declaration or report; or

(2) Both of the following:

(i) A new Certification Form; and

(ii) The specific forms required for the declaration or report type being amended (e.g., annual declaration on past activities) containing the corrected information required, in accordance with the requirements of this section, to amend your declaration or report.

### § 713.6 Declarations and reports returned without action by BIS.

If you submit a declaration or report and BIS determines that the information contained therein is not required by the CWCR, BIS will return the original declaration or report to you, without action, accompanied by a letter explaining BIS's decision. In order to protect your confidential business information, BIS will not maintain a copy of any declaration or report that is returned without action (RWA). However, BIS will maintain a copy of the RWA letter.

### § 713.7 Deadlines for submission of Schedule 2 declarations, reports, and amendments.

Declarations, reports, and amendments required under this part must be postmarked by the appropriate date identified in supplement no. 2 to this part 713. Required declarations, reports, and amendments include: