

## Environmental Protection Agency

## § 707.63

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. 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 "probably 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 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]

### § 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

## 40 CFR Ch. I (7-1-07 Edition)

### § 707.65 Submission to agency.

(a) For each action under TSCA triggering export notification, exporters 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 should be made to: OPPT Document Control Office (DCO), EPA East., Rm. 6428, Environmental Protection Agency, 1201 Constitution Ave., NW., Washington, DC (Attention: TSCA Section 12(b) Notice). The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO's normal hours of operation.

[45 FR 82850, Dec. 16, 1980, as amended at 53 FR 12522, Apr. 15, 1988; 58 FR 40242, July 27, 1993; 60 FR 34463, July 3, 1995; 71 FR 33641, June 12, 2006; 71 FR 66244, Nov. 14, 2006]

### § 707.67 Contents of notice.

The notice to EPA shall include:

(a) The name of the regulated chemical as it appears in the section 4, 5, 6, and/or 7 action. If a category is regulated, the name of the individual regulated chemical within that category, as well as the category, must be given. The name shall be that which appears in Volume I of the EPA Chemical Substance Inventory, or its supplements, if the chemical appears there.

(b) The name and address of the exporter.

(c) The country (countries) of import.

(d) The date(s) of export or intended export.

(e) The section (4, 5, 6, and/or 7) of TSCA under which EPA has taken action.

[45 FR 82850, Dec. 16, 1980, as amended at 71 FR 66245, Nov. 14, 2006]

### § 707.70 EPA notice to foreign governments.

(a)(1) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first annual notification from any exporter for each chemical substance or mixture that 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.

(2) Notice by EPA to the importing country shall be sent no later than 5 working days after receipt by the TSCA Document Processing Center of the first notification from any exporter for each chemical substance or mixture that 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 for which the submission of data is required under TSCA section 4 or 5(b).

(b) Notices shall:

(1) Identify the regulated chemical.

(2) Summarize the regulatory action taken, or indicate the availability of data under section 4 or 5(b) of TSCA.

(3) Identify an EPA official to contact for further information.

(4) Include a copy of the pertinent FEDERAL REGISTER notice.

(c) Notices shall be sent to the country's ambassador in Washington, DC, or other official designated by the foreign government, and to the United States Department of State.

[45 FR 82850, Dec. 16, 1980, as amended at 58 FR 40242, July 27, 1993; 71 FR 66245, Nov. 14, 2006]

#### **§ 707.72 Termination of reporting requirements.**

(a) The reporting requirements of subpart D of this part are terminated for certain specific chemical substances and mixtures as set forth in this paragraph.

(1) When data required under part 766 of this chapter have been submitted to EPA for a specific chemical substance produced by a specific process, and the data show no positive test result as defined in § 766.3 of this chapter, reporting is no longer required by persons who export or intend to export that substance produced by that process.

(2) [Reserved]

(b) [Reserved]

[52 FR 21437, June 5, 1987]

#### **§ 707.75 Confidentiality.**

(a) A person may assert a claim of confidentiality for any information which is submitted to EPA in a notice.

(b) Any claim of confidentiality must accompany the information at the time it is submitted to EPA. In the notice,

the submitter must clearly identify the information that is claimed confidential by marking the specific information on each page with a label such as "confidential business information", "proprietary", or "trade secret".

(c) Notwithstanding any claim of confidentiality, information outlined in § 707.70 will be included in the EPA notice to the foreign government. With this exception, EPA will disclose information that is covered by a claim of confidentiality asserted in accordance with this section only to the extent permitted by, and in accordance with, the procedures set forth in TSCA and part 2 of this chapter.

(d) If a person does not assert a claim of confidentiality for information at the time a notice is submitted to EPA, the Agency may make the information public, including placement in a public file, without further notice to the person.

## **PART 710—TSCA CHEMICAL INVENTORY REGULATIONS**

### **Subpart A—General Provisions**

Sec.

710.1 Scope and compliance.

710.3 Definitions.

710.4 Scope of the inventory.

### **Subpart B—2002 Inventory Update Reporting**

710.23 Definitions.

710.25 Chemical substances for which information must be reported.

710.26 Chemical substances for which information is not required.

710.28 Persons who must report.

710.29 Persons not subject to this subpart.

710.30 Activities for which reporting is not required.

710.32 Reporting information to EPA.

710.33 When to report.

710.35 Duplicative reporting.

710.37 Recordkeeping requirements.

710.38 Confidentiality.

710.39 How do I submit the required information?

### **Subpart C—Inventory Update Reporting for 2006 and Beyond**

710.43 Definitions.

710.45 Chemical substances for which information must be reported.

710.46 Chemical substances for which information is not required.