

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) Any person who exports or intends to export polychlorinated biphenyls (PCBs) or PCB articles, for any purpose other than disposal, shall notify EPA of such intent or exportation under section 12(b). PCBs and PCB articles have the definitions published in §761.3 of this title respectively.

(d) Any person who would be prohibited by a 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 section 12(b) of such intent to export or exportation.

(e) Failure to comply with section 12(b) as set forth in these rules will be considered a violation of section 15(3) of the Toxic Substances Control Act, and will subject the exporter to the penalty, enforcement, and seizure provisions of sections 16 and 17 of the Toxic Substances Control Act.

§ 707.63 Definitions.

The definitions set forth in the Toxic Substances Control Act, section 3, apply for this part. In addition, the fol-

lowing 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) Exporters must notify EPA of their export or intended export of each regulated chemical 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 to a particular country in a calendar year when data are required under section 5(b), an order has been issued under section 5, a rule has been proposed or promulgated under section 5 or 6, or an action is pending or relief has been granted under section 5 or 7.

(ii) The notice must be for the first export or intended export to a particular country when data are required under section 4.

(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 "Section 12(b) Notice" and sent to the Document Control Office (7407), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, Room

§ 707.67

G-099, 401 M St., SW., Washington, DC., 20460.

[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]

§ 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, 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, or 7) of TSCA under which EPA has taken action.

§ 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 for each regulated chemical when data are required under section 5(b), an order has been issued under section 5, a rule has been proposed or promulgated under section 5 or 6, or an action is pending or relief has been granted under section 5 or 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 for each regulated chemical when data are required under section 4.

(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 for-

40 CFR Ch. I (7-1-00 Edition)

eign government, and to the United States Department of State.

[45 FR 82850, Dec. 16, 1980, as amended at 58 FR 40242, July 27, 1993]

§ 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.