

sumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

**(2) Rulemaking**

The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

**(b) Coordination**

**(1) Avoidance of duplication**

To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this chapter or any other law.

**(2) Definition**

As used in paragraph (1), the term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5.

(Pub. L. 105-277, div. I, title IV, §401, Oct. 21, 1998, 112 Stat. 2681-880.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

REGULATIONS

Regulations under subsec. (a) to be issued by Department of Commerce by a date specified by Department of State as United States National Authority (USNA) and to be reviewed and approved by USNA in coordination with an interagency group, see section 3 of Ex. Ord. No. 13128, June 25, 1999, 64 F.R. 34703, set out as a note under section 6711 of this title.

**§ 6742. Prohibition relating to low concentrations of Schedules 2 and 3 chemicals**

**(a) Prohibition**

Notwithstanding any other provision of this chapter, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

- (1) 10 percent concentration of a Schedule 2 chemical; or

- (2) 80 percent concentration of a Schedule 3 chemical.

**(b) Standard for measurement of concentration**

The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

(Pub. L. 105-277, div. I, title IV, §402, Oct. 21, 1998, 112 Stat. 2681-881.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

**§ 6743. Prohibition relating to unscheduled discrete organic chemicals and coincidental by-products in waste streams**

**(a)<sup>1</sup> Prohibition**

Notwithstanding any other provision of this chapter, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

- (1) an unscheduled discrete organic chemical; and

- (2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

(Pub. L. 105-277, div. I, title IV, §403, Oct. 21, 1998, 112 Stat. 2681-881.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

**§ 6744. Confidentiality of information**

**(a) Freedom of Information Act exemption for certain Convention information**

Except as provided in subsection (b) or (c), any confidential business information, as defined in section 6713(g) of this title, reported to, or otherwise acquired by, the United States Government under this chapter or under the Convention shall not be disclosed under section 552(a) of title 5.

**(b) Exceptions**

**(1) Information for the Technical Secretariat**

Information shall be disclosed or otherwise provided to the Technical Secretariat or other

<sup>1</sup> So in original. No subsec. (b) has been enacted.

states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

**(2) Information for Congress**

Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

**(3) Information for enforcement actions**

Information shall be disclosed to other Federal agencies for enforcement of this chapter or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this chapter or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

**(c) Information disclosed in national interest**

**(1) Authority**

The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this chapter or the Convention, including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

**(2) Notice of disclosure**

**(A) Requirement**

If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

(i) to the person that submitted such information; and

(ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

**(B) Proceedings on objections**

In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

**(d) Criminal penalty for wrongful disclosure**

Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18 or imprisoned for not more than five years, or both.

**(e) Criminal forfeiture**

The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C<sup>1</sup> of title 18.

**(f) International inspectors**

The provisions of this section shall also apply to employees of the Technical Secretariat.

(Pub. L. 105-277, div. I, title IV, §404, Oct. 21, 1998, 112 Stat. 2681-882.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (b)(3), and (c)(1), was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

**§ 6745. Recordkeeping violations**

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by this chapter or any regulation prescribed under this chapter;

(2) to submit any report, notice, or other information to the United States Government in accordance with this chapter or any regulation prescribed under this chapter; or

(3) to permit access to or copying of any record that is exempt from disclosure under this chapter or any regulation prescribed under this chapter.

(Pub. L. 105-277, div. I, title IV, §405, Oct. 21, 1998, 112 Stat. 2681-883.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

<sup>1</sup> So in original. Probably should be section “229B”.