

No. 13313, July 31, 2003, 68 F.R. 46074, set out as a note under section 301 of Title 3, The President.

§ 6729. United States assistance in inspections at private facilities

(a) Assistance in preparation for inspections

At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) Reimbursement requirement

(1) In general

Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) Exception

In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) Owners covered by United States National Authority reimbursements

Subsection (b)(2) applies in the case of assistance provided to the following:

(1) Small business concerns

A small business concern as defined in section 632 of title 15.

(2) Domestic producers of Schedule 3 or unscheduled discrete organic chemicals

Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

(Pub. L. 105-277, div. I, title III, §310, Oct. 21, 1998, 112 Stat. 2681-880.)

SUBCHAPTER III—REPORTS

§ 6741. Reports required by United States National Authority

(a) Regulations on recordkeeping

(1) Requirements

The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, con-

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)¹ 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

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.

¹ So in original. No subsec. (b) has been enacted.