

■ 4. The authority citation for part 1102, subpart D, continues to read as follows:

Authority: 5 U.S.C. 552, 553(e); Executive Order 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

■ 5. In 12 CFR part 1102, remove the words “2100 Pennsylvania Avenue, NW., Suite 200, Washington, DC 20037” wherever they appear and add, in their place, the words, “2000 K Street, NW., Suite 310, Washington, DC 20006.”

■ 6. In 12 CFR part 1102, remove the words “2100 Pennsylvania Avenue, NW., Suite 200, Washington, DC” wherever they appear and add, in their place, the words, “2000 K Street, NW., Suite 310, Washington, DC.”

■ 7. In 12 CFR part 1102, § 1102.306(a)(1)(i), remove the fax number, “(202) 872-7501” and add, in its place, “(202) 293-6251.”

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Dated: January 12, 2004.

Ben Henson,

Executive Director.

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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 711

[Docket No. 0312113311-3311-01]

RIN 0694-AC97

Chemical Weapons Convention Regulations: Electronic Submission of Declarations and Reports Through the Web-Data Entry System for Industry (Web-DESI)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule.

SUMMARY: The Bureau of Industry and Security (BIS) published an interim rule, on December 30, 1999, that established the Chemical Weapons Convention Regulations (CWCR) to implement the provisions of the Chemical Weapons Convention (CWC) affecting U.S. industry and other U.S. persons. The CWCR include requirements to report certain activities, involving Scheduled chemicals and Unscheduled Discrete Organic Chemicals, and to provide access for on-site verification by international inspectors of certain facilities and locations in the United States. This interim final rule amends the CWCR by

adding instructions on how to obtain authorization from BIS to make electronic submissions of declarations and reports through the Web-Data Entry System for Industry (Web-DESI), which can be accessed on the CWC Web site at <http://www.cwc.gov>. The rule also establishes procedures for the assignment and use of passwords for facilities, plant sites and trading companies (USC password) and procedures for the assignment and use of Web-DESI user accounts.

DATES: This rule is effective January 16, 2004.

FOR FURTHER INFORMATION CONTACT: For questions of a general or regulatory nature, contact the Regulatory Policy Division, telephone: (202) 482-2440. For program information on declarations and reports, contact the Treaty Compliance Division, Office of Nonproliferation Controls and Treaty Compliance, telephone: (703) 605-4400.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 1997, the United States ratified the Convention on the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention). The CWC, which entered into force on April 29, 1997, is an arms control treaty with significant non-proliferation aspects. As such, the CWC bans the development, production, stockpiling or use of chemical weapons and prohibits States Parties to the CWC from assisting or encouraging anyone to engage in a prohibited activity. The CWC provides for declaration and inspection of all States Parties' chemical weapons and chemical weapon production facilities, and oversees the destruction of such weapons and facilities. To fulfill its arms control and non-proliferation objectives, the CWC also establishes a comprehensive verification scheme and requires the declaration and inspection of facilities that produce, process or consume certain “scheduled” chemicals and unscheduled discrete organic chemicals, many of which have significant commercial applications. The CWC also requires States Parties to report exports and imports and to impose export and import restrictions on certain chemicals. These requirements apply to all entities under the jurisdiction and control of States Parties, including commercial entities and individuals. States Parties to the CWC, including the United States, have agreed to this verification scheme in order to provide transparency and to

ensure that no State Party to the CWC is engaging in prohibited activities.

The Chemical Weapons Convention Implementation Act of 1998 (“Act”) (22 U.S.C. 6701 *et seq.*), enacted on October 21, 1998, authorizes the United States to require the U.S. chemical industry and other private entities to submit declarations, notifications and other reports and also to provide access for on-site inspections conducted by inspectors sent by the Organization for the Prohibition of Chemical Weapons (OPCW). Executive Order (E.O.) 13128 delegates authority to the Department of Commerce to promulgate regulations, obtain and execute warrants, provide assistance to certain facilities, and carry out appropriate functions to implement the CWC, consistent with the Act.

On December 30, 1999, the Bureau of Industry and Security (BIS), U.S. Department of Commerce, published an interim rule that established the Chemical Weapons Convention Regulations (CWCR) (15 CFR parts 710-722). The CWCR implemented the provisions of the CWC, affecting U.S. industry and U.S. persons, in accordance with the provisions of the Act. This interim final rule amends the CWCR by adding instructions on how to obtain authorization from BIS to make electronic submissions of declarations and reports through the Web-Data Entry System for Industry (Web-DESI), which can be accessed on the CWC Web site at <http://www.cwc.gov>. The rule also establishes procedures for the assignment and use of passwords for facilities, plant sites and trading companies (USC password) and procedures for the assignment and use of Web-DESI user accounts (user name and password).

Rulemaking Requirements

1. This interim final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid OMB control number. This rule amends an existing collection of information authority approved under OMB Control No. 0694-0091. The public reporting burdens for the collection of information are estimated to average 10.6 hours for Schedule 1 Chemicals, 11.9 hours for Schedule 2 chemicals, 2.5 hours for Schedule 3 chemicals, 5.3 for Unscheduled Discrete Organic Chemicals (UDOCs), and 0.17

hours for Schedule 1 notifications. The burden hours associated with completing a particular type of declaration or report package (e.g., Schedule 2 annual declaration on past activities) will change depending on the number of forms required to comply with the specific declaration or report requirement. Supplement 2 to parts 712, 713, 714, and 715 of the CWCW identifies the specific forms that must be included in each type of declaration or report package. The CWC Declaration and Report Handbook includes a "Guide to Submission of Forms" which also identifies the specific forms that must be included in a declaration or report package.

BIS will use the information contained in declarations and reports submitted by U.S. persons to compile the U.S. National Industrial Declaration in order to meet our obligations under the Chemicals Weapons Convention (CWC). BIS will submit the U.S. National Industrial Declaration to the United States National Authority who will forward the Declaration to the Organization for the Prohibition of Chemical Weapons (OPCW) as required by the Convention.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. Pursuant to 5 U.S.C. 553(b)(B), the provisions of the Administrative Procedure Act requiring a prior notice and an opportunity for public comment are waived for good cause, because it is unnecessary to provide public notice and opportunity for comment. This regulation does not impose any new regulatory requirements or effect a substantive change to any existing regulatory requirement. Submission of documents through the Web-DESI system is voluntary and provided for the convenience of submitters. No other law requires that a notice of final rulemaking and an opportunity for public comment be given for this rule. Because a notice of final rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects in 15 CFR Part 711

Chemicals, Confidential business information, Reporting and recordkeeping requirements.

■ Accordingly, part 711 of the Chemical Weapons Convention Regulations is amended as follows:

PART 711—[AMENDED]

■ 1. The authority citation for 15 CFR part 711 continues to read as follows:

Authority: 22 U.S.C. 6701 *et seq.*; E.O. 13128, 64 FR 34703.

■ 2. Section 711.7 is added to read as follows:

§ 711.7 How to request authorization from BIS to make electronic submissions of declarations or reports.

(a) *Scope.* This section provides an optional method of submitting declarations or reports. Specifically, this section applies to the electronic submission of declarations and reports required under the CWCW. If you choose to submit declarations and reports by electronic means, all such electronic submissions must be made through the Web-Data Entry System for Industry (Web-DESI), which can be accessed on the CWC Web site at <http://www.cwc.gov>.

(b) *Authorization.* If you or your company has a facility, plant site, or trading company that has been assigned a U.S. Code Number (U.S.C. Number), you may submit declarations and reports electronically, once you have received authorization from BIS to do so. An authorization to submit declarations and reports electronically may be limited or withdrawn by BIS at any time. There are no prerequisites for obtaining permission to submit electronically, nor are there any limitations with regard to the types of declarations or reports that are eligible for electronic submission. However, BIS may direct, for any reason, that any electronic declaration or report be resubmitted in writing, either in whole or in part.

(1) *Requesting approval to submit declarations and reports electronically.* To submit declarations and reports electronically, you or your company must submit a written request to BIS at the address identified in § 711.6 of the CWCW. Both the envelope and letter must be marked "Attn: Electronic Declaration or Report Request." Your request should be on company letterhead and must contain your name or the company's name, your mailing address at the company, the name of the facility, plant site or trading company and its U.S. Code Number, the address of the facility, plant site or trading company (this address may be different from the mailing address), the list of individuals who are authorized to view, edit, or edit and submit declarations and reports on behalf of your company, and the telephone number and name and title of the official responsible for certifying that each individual listed in

the request is authorized to view, edit, or edit and submit declarations and reports on behalf of you or your company. Additional information required for submitting electronic declarations and reports may be found on BIS's Web site at <http://www.cwc.gov>. Once you have completed and submitted the necessary certifications, you may be authorized by BIS to view, edit, or edit and submit declarations and reports electronically.

Note to § 711.7(b)(1): You must submit a separate request for each facility, plant site or trading company owned by your company (e.g., each site that is assigned a unique U.S. Code Number).

(2) Assignment and use of passwords for facilities, plant sites and trading companies (U.S.C. password) and Web-DESI user accounts (user name and password).

(i) Each person, facility, plant site or trading company authorized to submit declarations and reports electronically will be assigned a password (U.S.C. password) that must be used in conjunction with the U.S.C. Number. Each individual authorized by BIS to view, edit, or edit and submit declarations and reports electronically for a facility, plant site or trading company will be assigned a Web-DESI user account (user name and password) telephonically by BIS. A Web-DESI user account will be assigned to you only if your company has certified to BIS that you are authorized to act for it in viewing, editing, or editing and submitting electronic declarations and reports under the CWCW.

Note to § 711.7(b)(2)(i): When individuals must have access to multiple Web-DESI accounts, their companies must identify such individuals on the approval request for each of these Web-DESI accounts. BIS will coordinate with such individuals to ensure that the assigned user name and password is the same for each account.

(ii) Your company may reveal the facility, plant site or trading company password (U.S.C. password) only to Web-DESI users with valid passwords, their supervisors, and employees or agents of the company with a commercial justification for knowing the password.

(iii) If you are an authorized Web-DESI account user, you may not:

(A) Disclose your user name or password to anyone;

(B) Record your user name or password, either in writing or electronically;

(C) Authorize another person to use your user name or password; or

(D) Use your user name or password following termination, either by BIS or by your company, of your authorization or approval for Web-DESI use.

(iv) To prevent misuse of the Web-DESI account:

(A) If Web-DESI user account information (*i.e.*, user name and password) is lost, stolen or otherwise compromised, the company and the user must report the loss, theft or compromise of the user account information, immediately, by calling BIS at (703) 235-1335. Within two business days of making the report, the company and the user must submit written confirmation to BIS at the address provided in § 711.6 of the CWCRC.

(B) Your company is responsible for immediately notifying BIS whenever a Web-DESI user leaves the employ of the company or otherwise ceases to be authorized by the company to submit declarations and reports electronically on its behalf.

(v) No person may use, copy, appropriate or otherwise compromise a Web-DESI account user name or password assigned to another person. No person, except a person authorized access by the company, may use or copy the facility, plant site or trading company password (U.S.C password), nor may any person steal or otherwise compromise this password.

(c) *Electronic submission of declarations and reports.* (1) *General instructions.* Upon submission of the required certifications and approval of the company's request to use electronic submission, BIS will provide instructions on both the method for transmitting declarations and reports electronically and the process for submitting required supporting documents, if any. These instructions may be modified by BIS from time to time.

(2) *Declarations and reports.* The electronic submission of a declaration or report will constitute an official document as required under parts 712 through 715 of the CWCRC. Such submissions must provide the same information as written declarations and reports and are subject to the recordkeeping provisions of part 720 of the CWCRC. The company and Web-DESI user submitting the declaration or report will be deemed to have made all representations and certifications as if the submission were made in writing by the company and signed by the certifying official. Electronic submission of a declaration or report will be considered complete upon transmittal to BIS.

(d) *Updating.* A company approved for electronic submission of declarations or reports under Web-DESI must promptly notify BIS of any change in its name, ownership or address. If your company wishes to have an individual added as a Web-DESI user, your company must inform BIS and follow the instructions provided by BIS. Your company should conduct periodic reviews to ensure that the company's designated certifying official and Web-DESI users are individuals whose current responsibilities make it necessary and appropriate that they act for the company in either capacity.

Dated: January 12, 2004.

Peter Lichtenbaum,
Assistant Secretary, for Export Administration.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM04-3-000; Order No. 645]

Emergency Closures

Issued December 18, 2003.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is modifying its regulations governing computation of time to cover situations in which its offices are closed due to temporary emergency conditions such as severe weather. This change will prevent unintended Commission action and eliminate possible hardship by ensuring that filing deadlines and deadlines for action by the Commission do not expire during times when the Commission is unable to accept filings or issue orders.

EFFECTIVE DATE: The rule will become effective December 18, 2003.

FOR FURTHER INFORMATION CONTACT: Wilbur Miller, Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, (202) 502-8953.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; Nora Mead Brownell, Joseph T. Kelliher, and Suede G. Kelly.

1. This Final Rule revises the Commission's regulations to ensure that filing deadlines and deadlines for action by the Commission do not expire during periods in which the Commission is

closed due to temporary emergency conditions, such as severe weather emergencies. The Commission's regulations currently provide that the last day of a time period is not counted if that day is a Saturday, Sunday, part-day holiday that affects the Commission, or legal public holiday. 18 CFR 385.2007(a)(2) (2003) (Rule 2007). Thus, Rule 2007 would not have covered, for example, the Commission's temporary closure for two and one-half days in September 2003 due to the effects of Hurricane Isabel.

2. This Final Rule adds a provision to Rule 2007 covering temporary closures due to weather or other adverse conditions. The absence of such a provision could result in unintended action by the Commission or otherwise cause hardship to participants in Commission proceedings who face filing deadlines. This would particularly be a problem in connection with statutory deadlines that the Commission cannot extend, such as the 30-day period for requesting rehearing of a Commission order.¹ See 15 U.S.C. 717r(a) (Natural Gas Act); 16 U.S.C. 825l(a) (Federal Power Act). In addition, situations could arise in which the Commission is required to take action by a date certain but cannot do so because its offices are closed. For example, the Commission must act by a specified time on a rate proposal filed by a public utility, or an oil or natural gas pipeline, or the filing becomes effective by operation of law. See 16 U.S.C. 824d (Federal Power Act) (60 days); 15 U.S.C. 717c (Natural Gas Act) (30 days); 49 App. U.S.C. 6(3) (Interstate Commerce Act) (30 days). It is therefore in the public interest to revise the Commission's rules to ensure that a day on which it is closed due to adverse conditions does not count as the last day of the time period for a deadline.

3. In view of the foregoing, the Commission is making one addition to Rule 2007. Currently, the last day of a time period is extended if it falls on a weekend, part-day holiday or legal public holiday. The addition will cover days on which the Commission is closed due to adverse conditions. It will apply to full-day closures and also part-day closures as long as the Commission does not reopen prior to the official close of business.

¹ See, e.g., *Tennessee Gas Pipeline Co.*, 95 FERC ¶61,169 (Commission may not extend 30-day rehearing deadline, although it can provide rules for computing time as it has done in Rule 2007), *aff'd sub nom. Londonderry Neighborhood Coalition v. FERC*, 273 F.3d 416 (1st Cir. 2001).