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15 CFR Parts 713 and 716

Impact of Reducing the Mixture Concentration Threshold for Commercial  
Schedule 2A Chemical Activities Under the Chemical Weapons Convention  
Regulations; Proposed Rule

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****15 CFR Parts 713 and 716**

RIN 0694-XA27

[Docket No. 100817370-0464-01]

**Impact of Reducing the Mixture Concentration Threshold for Commercial Schedule 2A Chemical Activities Under the Chemical Weapons Convention Regulations****AGENCY:** Bureau of Industry and Security, Commerce.**ACTION:** Notice of inquiry.

**SUMMARY:** The Bureau of Industry and Security (BIS) is seeking public comments on the impact of amending the Chemical Weapons Convention Regulations (CWC) to reduce the concentration level below which the CWC exempt certain mixtures containing a Schedule 2A chemical from the declaration requirements that apply to Schedule 2A chemical production, processing, and consumption under the Chemical Weapons Convention (CWC). To make these declaration requirements consistent with the international agreement adopted by the Organization for the Prohibition of Chemical Weapons (OPCW), BIS is considering amending the CWC to replace the current low concentration exemption (a concentration of “less than 30%” by volume or weight) with a two-tiered low concentration exemption that is based, in part, on whether the total amount of a Schedule 2A chemical produced, processed, or consumed at one or more plants on a plant site during a calendar year is less than the applicable verification threshold in the CWC. Under this two-tiered approach, the declaration and reporting requirements in the CWC would not apply to a chemical mixture containing a Schedule 2A chemical if: The concentration of the Schedule 2A chemical in the mixture is “1% or less,” or the concentration of the Schedule 2A chemical in the mixture is “more than 1%, but less than or equal to 10%,” and the annual amount of the Schedule 2A chemical produced, processed, or consumed is less than the relevant verification threshold. Legislative amendment of the Chemical Weapons Convention Implementation Act (CWCIA) is required in order to implement this proposed amendment to the CWC.

In addition, at U.S. national discretion, BIS is considering amending the CWC to require declarations/

reports for exports and imports of any mixtures that contain “more than 10%” of a Schedule 2A chemical by volume or weight (whichever method yields the lesser percentage), if the total quantity of the Schedule 2A chemical exported or imported during a calendar year exceeds the applicable CWC declaration threshold.

**DATES:** Comments are due August 12, 2011.

**ADDRESSES:** You may submit comments by any of the following methods:

- *E-mail:* [wfisher@bis.doc.gov](mailto:wfisher@bis.doc.gov).

Include the phrase “Schedule 2A Notice of Inquiry” in the subject line of the message.

- *Fax:* (202) 482-3355 (Attn: Willard Fisher). Please alert the Regulatory Policy Division, by calling (202) 482-2440, if you are faxing comments.

- *Mail or Hand Delivery/Courier:* Willard Fisher, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230.

Send comments regarding the collection of information identified in this notice of inquiry, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to [Jasmeet\\_K\\_Seehra@omb.eop.gov](mailto:Jasmeet_K_Seehra@omb.eop.gov), or by fax to (202) 395-7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. Comments on this collection of information should be submitted separately from comments on the notice of inquiry—all comments on the latter should be submitted by one of the three methods outlined above.

**FOR FURTHER INFORMATION CONTACT:** For questions on the Chemical Weapons Convention requirements for Schedule 2A and 2A\* chemicals, contact Douglas Brown, Treaty Compliance Division, Office of Nonproliferation and Treaty Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482-2163. For questions on the submission of comments, contact Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (202) 482-2440.

**SUPPLEMENTARY INFORMATION:****Background**

The Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and Their Destruction,

commonly called the Chemical Weapons Convention (CWC or the Convention), is an international arms control and nonproliferation treaty that established the Organization for the Prohibition of Chemical Weapons (OPCW) to implement the verification provisions of the treaty. A major objective of the CWC is to verify that lawful activities of chemical producers and users are not converted to unlawful activities related to chemical weapons. Consistent with this objective, the CWC imposes a number of obligations on countries that have ratified the CWC (States Parties). In this regard, the CWC establishes a comprehensive verification scheme and requires the declaration and inspection of facilities that produce, process, or consume certain “scheduled” chemicals (*i.e.*, Schedule 1, Schedule 2, and Schedule 3 chemicals) and unscheduled discrete organic chemicals (UDOCs), 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.

To ensure the implementation of this verification scheme on a national level, the CWC requires each State Party to enact legislation that prohibits the production, storage and use of chemical weapons, and to establish a National Authority to serve as a liaison with the OPCW and other States Parties. The CWC also requires that each State Party implement a comprehensive data declaration<sup>1</sup> and inspection regime<sup>2</sup> to

<sup>1</sup> In the United States, facilities that have data declaration obligations under the Chemical Weapons Convention Regulations (CWC) (15 CFR Parts 710–722), because they engage in certain activities involving scheduled chemicals or unscheduled discrete organic chemicals, must submit the appropriate declaration forms to the Bureau of Industry and Security (BIS). Such facilities are treated as “declared” facilities under the CWC and their facility-specific information is transmitted by the U.S. to the OPCW. Entities that are “undeclared” facilities or trading companies, whose obligations under the CWC are limited to certain export and/or import activities, must submit the appropriate report forms to BIS—their facility-specific information is not transmitted by the U.S. to the OPCW (*i.e.*, the information is aggregated prior to transmission to the OPCW). “Declared” facilities also must submit export/import information to BIS if such activities are subject to the declaration/reporting requirements of the CWC.

<sup>2</sup> Each State Party to the CWC, including the United States, has agreed to allow certain inspections of “declared” facilities by inspection teams employed by the OPCW to ensure that the activities of such facilities comply with CWC requirements. BIS is responsible for leading, hosting and escorting inspections of all facilities subject to

provide transparency and to verify that both the public and private sectors of States Parties are not engaged in activities prohibited under the CWC.

This notice of inquiry addresses the CWC requirements that apply to certain mixtures that contain a Schedule 2 chemical. Part VII, paragraph 5 of the Verification Annex to the CWC ("Schedule 2 Regime") provides that declarations "are generally not required for mixtures containing a low concentration of a Schedule 2 chemical" and that the Conference of the States Parties to the Convention will consider and approve guidelines to establish the appropriate low concentration level. Schedule 2 chemicals, as set forth in the Convention's "Annex on Chemicals," include those chemicals and precursors identified in the Convention as posing a "significant" risk to the object and purpose of the Convention.<sup>3</sup>

Consistent with the requirements of the CWC, the Chemical Weapons Implementation Act of 1998 (CWCIA) (22 U.S.C. 6701 *et seq.*), which was 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 to provide access for on-site inspections conducted by inspectors sent by the OPCW. Section 402(a)(1) of the CWCIA established 10% as the concentration limit of any Schedule 2 chemical (*i.e.* Schedule 2A, 2A\*, or 2B chemicals)<sup>4</sup> in a mixture, below which the CWC's declaration, reporting and inspection requirements do not apply.

The Bureau of Industry and Security (BIS) administers the Chemical Weapons Convention Regulations (CWCRC) (15 CFR Parts 710–722), which implement provisions of the CWCIA. Currently, the CWCRC do not require that the quantity of a Schedule 2A chemical contained in a mixture be counted for declaration or reporting purposes if the concentration of the Schedule 2A

chemical in the mixture is "less than 30%" by volume or weight, whichever yields the lesser percentage. This low concentration exemption was implemented by BIS in the CWCRC in 1999, prior to the 2009 approval by the Conference of the States Parties to the Convention of guidelines, as described below, that established the low concentration exemption for mixtures containing Schedule 2 chemicals, in accordance with the Schedule 2 Regime.

The CWCRC currently apply a 30% low concentration threshold to the application of the Schedule 2A chemical declaration, reporting, and inspection requirements, rather than the 10% low concentration threshold established by the CWCIA, in order to ensure that the chemical mixture requirements in the CWCRC are compatible with the export requirements in the Export Administration Regulations (EAR) (15 CFR parts 730–774) that apply to certain scheduled chemical precursors (including mixtures that contain these precursors). Although the Schedule 2A chemical low concentration threshold in the CWCRC is higher than the low concentration threshold established by CWCIA, it is consistent with the CWCIA because it still exempts mixtures that contain Schedule 2A chemicals at a concentration level below 10% from the declaration, reporting, and inspection requirements of the CWC. However, legislative amendment of the CWCIA will be required prior to any change in the CWCRC low concentration threshold that would reduce this threshold below the 10% low concentration threshold established by the CWCIA.

The declaration, reporting, and inspection/verification requirements in the CWC that affect commercial activities involving Schedule 2 chemicals are described in parts 713 and 716 of the CWCRC. These CWCRC provisions:

(1) Require annual declarations by certain facilities (*i.e.*, "declared" Schedule 2 "plant sites") that were engaged in the production, processing, or consumption of a Schedule 2A chemical during any of the three previous calendar years, or which anticipate engaging in such activities in the next calendar year, in excess of the following quantities (declaration thresholds):

(a) 100 kilograms of chemical Amiton: 0,0 Diethyl S-[2-(diethylamino) ethyl] phosphorothiolate and corresponding alkylated or protonated salts;

(b) 100 kilograms of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene; or

(c) 1 kilogram of chemical BZ: 3-Quinuclidinyl benzilate (15 CFR § 713.2(a)(1));

(2) Require that the calculation of the quantity of any Schedule 2 chemical that is produced, processed or consumed must include the quantities produced, processed or consumed in mixtures, if the concentration of the Schedule 2 chemical in the mixture is equal to or greater than 30% by volume or by weight, whichever yields the lesser percentage (15 CFR 713.2(a)(3));

(3) Define Schedule 2 chemical production to include all steps in the production of a Schedule 2 chemical in any units within the same plant through chemical reaction, including any associated processes (*e.g.*, purification, separation, extraction, distillation, or refining) in which the chemical is not converted into another chemical (15 CFR 713.2(a)(2));

(4) Provide that all "declared Schedule 2" plant sites are subject to initial and routine inspection by the OPCW (15 CFR 713.2(e));

(5) Require plant sites, trading companies, and any other person subject to the CWCRC to submit annual declarations/reports of all exports and imports of any Schedule 2 chemical to, or from, other destinations if the total quantity exported or imported exceeds the applicable declaration threshold (15 CFR 713.3); and

(6) Define inspection/verification thresholds for the production, processing, or consumption, during the calendar year of a Schedule 2A chemical as being in excess of the following quantities:

(a) 1 metric ton (MT) of chemical Amiton: 0,0 Diethyl S [2 (diethylamino) ethyl] phosphorothiolate and corresponding alkylated or protonated salts;

(b) 1 MT of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene; or

(c) 10 kg of chemical BZ: 3-Quinuclidinyl benzilate (15 CFR 716.1(b)(2)).

During the OPCW's 14th Conference of the States Parties, which was held in The Hague, the Netherlands, on December 2, 2009, the States Parties to the CWC agreed that the CWC's declaration and reporting requirements would not apply to a chemical mixture containing a Schedule 2A chemical if:

(1) The concentration of the Schedule 2A chemical in the mixture is "1% or less" or (2) the concentration of the Schedule 2A chemical in the mixture is "more than 1%, but less than or equal to 10%," and the annual amount of the Schedule 2A chemical produced, processed, or consumed is less than the

the provisions of the CWCRC. (See 15 CFR part 716 for the types of activities that are subject to inspection and specific inspection thresholds.)

<sup>3</sup> The CWC "Annex on Chemicals" groups scheduled chemicals (*i.e.*, Schedules 1, 2, and 3) according to the level of risk to the "object and purpose" of the CWC, with Schedule 1 chemicals representing the highest level of risk and Schedule 3 chemicals, the lowest.

<sup>4</sup> Schedule 2 in the CWC "Annex on Chemicals" contains the subcategories 2A and 2B. Schedule 2A chemicals consist of those Schedule 2 chemicals that are identified as "toxic" chemicals. Schedule 2B chemicals consist of those Schedule 2 chemicals that are identified as "precursor" chemicals. One chemical within the subcategory Schedule 2A (*i.e.*, "BZ: 3-Quinuclidinyl benzilate") is designated as a Schedule 2A\* chemical, because it has a lower declaration threshold and a lower inspection/verification threshold than the other Schedule 2A chemicals.

relevant verification threshold. As previously indicated, a low concentration exemption of “less than 30%” currently applies to Schedule 2 chemicals in the United States under the CWC. The OPCW agreement is documented in OPCW Decision C-14/DEC.4 and can be obtained from the OPCW Web site (<http://www.opcw.org>). Amendment to the CWCIA and CWC is necessary to implement these new OPCW guidelines.

In addition, during the OPCW’s 5th Conference of the States Parties, which was held in The Hague, the Netherlands, on May 19, 2000, the States Parties to the CWC agreed that the CWC’s declaration requirements would not apply to a chemical mixture containing a Schedule 2B chemical or a Schedule 3 chemical if the concentration of the Schedule 2B chemical or the Schedule 3 chemical in the mixture is “30% or less.” The impact of this CWC agreement on the declaration requirements for Schedule 2B chemicals is expected to be modest because the amount of a Schedule 2B chemical in a mixture is currently exempted from the declaration requirements in the CWC if the concentration of the Schedule 2B chemical in the mixture is “less than 30%.” BIS will address the impact of these new CWC guidelines on Schedule 3 chemical declaration requirements in a separate rulemaking. The CWC agreement is documented in OPCW Decision C-V/DEC.19 and can be obtained from the OPCW Web site (<http://www.opcw.org>).

#### Discussion and Request for Comments

Section 713.2(a) of the CWC requires submission of a declaration from a plant site if one or more plants at that plant site produced, processed or consumed a Schedule 2A chemical during any of the three previous calendar years, or anticipate doing so in the next calendar year, in excess of the quantity specified (the declaration threshold) for a Schedule 2A chemical. A plant site is subject to inspection/verification if it produced, processed or consumed a Schedule 2A chemical during any of the three previous calendar years, or anticipates doing so in the next calendar year, in excess of ten times the applicable declaration threshold for a Schedule 2A chemical (the verification threshold). Currently, the CWC requires that the quantity of a Schedule 2A chemical produced, processed or consumed in mixtures be included in the calculation of the annual quantity of Schedule 2A chemicals produced, processed or consumed only if the mixture contains 30% or more by

weight or volume (whichever yields the lesser percentage) of the Schedule 2A chemical.

To make these CWC requirements consistent with OPCW Decision C-14/DEC.4, BIS is considering amending the CWC to establish a two-tiered low concentration exemption for certain mixtures containing Schedule 2A chemicals. The two tiers would be based, in part, on whether the total Schedule 2A chemical production, processing, or consumption at one or more plants on a plant site during a calendar year is less than the applicable verification threshold in the CWC.

Under the first tier, a mixture that contains a Schedule 2A chemical at a concentration of “1% or less” by volume or weight (whichever method yields the lesser percentage) would be exempt from the CWC declaration requirements for Schedule 2A chemicals and, as such, none of the Schedule 2A chemical in the mixture would have to be counted for declaration purposes. Furthermore, the amount of the Schedule 2A chemical in such a mixture would be exempt from the CWC Schedule 2A declaration requirements regardless of the total amount of the Schedule 2A chemical produced, processed, or consumed at one or more plants on a plant site during a calendar year. Under the second tier, a mixture that contains a Schedule 2A chemical at a concentration of “more than 1%, but less than or equal to 10%,” by volume or weight (whichever method yields the lesser percentage) would be exempt from the CWC declaration requirements for Schedule 2A chemicals, provided that the total amount of a Schedule 2A chemical produced, processed, or consumed at one or more plants on a plant site during a calendar year is less than the applicable verification threshold.

Also, BIS is considering amending the threshold level at which the CWC would require declarations/reports on exports and imports of Schedule 2A chemicals contained in mixtures. Under the changes being considered by BIS, the CWC would require declarations/reports on exports and imports of a Schedule 2A chemical contained in a mixture at a concentration of “more than 10%” by volume or weight (whichever yields the lesser percentage), if the total quantity of the Schedule 2A chemical exported or imported during a calendar year exceeds the applicable declaration threshold. Currently, the CWC requires that exports and imports of a Schedule 2 chemical in a mixture

be counted for declaration/reporting<sup>5</sup> purposes if the concentration of the Schedule 2 chemical in the mixture is “30% or more” by volume or weight (whichever yields the lesser percentage).

The impact of implementing OPCW Decision C-14/DEC.4 in the CWC is illustrated, below, by using the production of the Schedule 2A chemical Perfluoroisobutene (PFIB), also known as 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene, as an example. The CWC implements the declaration requirements in the CWC that apply if at least one plant at a plant site produces, processes, or consumes more than 100 kg of PFIB during a calendar year (i.e., the declaration threshold for PFIB). Additionally, the CWC imposes the CWC inspection/verification requirements for the production, processing, or consumption of more than 1 MT of PFIB (i.e., the verification threshold for PFIB). Using the declaration and verification thresholds for PFIB, a number of possible scenarios are described below to clarify how these proposed amendments would operate in practice.

(1) If the calendar year production of PFIB at one or more plants on a plant site totaled 90 kg of PFIB as a mixture containing PFIB at a concentration of 11%, then the Schedule 2A chemical declaration requirements in the CWC would not apply, because the total amount of PFIB produced by one or more plants on the plant site did not exceed the declaration threshold of 100 kg. In addition, if the plant site (or a person or trading company) exported or imported a total of 90 kg of PFIB as a mixture containing PFIB at a concentration of 11%, then the CWC declaration/reporting requirements for exports and imports of Schedule 2A chemicals would not apply, because the total amount of PFIB exported or imported did not exceed the applicable declaration/reporting threshold for exports or imports (100 kg). In both scenarios, the concentration of PFIB in

<sup>5</sup> “Declared” facilities that engaged in certain export and/or import activities involving Schedule 2 chemicals must submit such export/import information as part of their declarations, if the exported/imported chemicals are the same as those chemicals that were declared as produced, processed, and/or consumed by such facilities. “Declared” facilities that engaged in export and/or import activities involving Schedule 2 chemicals that were different from those produced, processed, and/or consumed by such facilities above the applicable declaration threshold must report such activities to BIS either with their respective declarations or in a separate report. “Undeclared” facilities or trading companies that engaged in export and/or import activities involving Schedule 2 chemicals also must report such information to BIS. (See Section 713.3(a) of the CWC and the Notes thereto.)

the mixture is irrelevant, because the total quantity of PFIB did not exceed the applicable declaration and/or reporting threshold.

(2) If the calendar year production of PFIB at one or more plants on a plant site totaled 1.1 MT of PFIB as a mixture containing PFIB at a concentration of 1%, then the Schedule 2A chemical declaration requirements in the CWCR would not apply to the quantity of PFIB in the mixture. This would be the outcome under the new low concentration exemption being considered by BIS, because the amount of PFIB in mixtures containing 1% or less of PFIB does not have to be counted, for purposes of the Schedule 2A declaration requirements, even if the total amount of PFIB produced, processed, or consumed at one or more plants on a plant site exceeds the applicable verification threshold (1 MT). If such a mixture were exported or imported, then the CWCR declaration/reporting requirements for exports or imports of Schedule 2A chemicals would not apply to the quantity of PFIB in the mixture, because the concentration of PFIB in the mixture (1% PFIB) does not exceed the 10% low concentration exemption for mixtures containing Schedule 2A chemicals.

(3) If the calendar year production of PFIB at one or more plants on a plant site totaled 900 kg of PFIB as a mixture containing PFIB at a concentration of 10%, then the Schedule 2A declaration requirements in the CWCR would not apply to the quantity of PFIB in the mixture, because the total amount of PFIB produced at one or more plants on the plant site did not exceed the 1 MT verification threshold and, therefore, the 10% low concentration exemption for mixtures containing Schedule 2A chemicals would apply (i.e., the amount of PFIB in mixtures containing PFIB at a concentration of 10% or less does not have to be counted for purposes of the CWCR declaration requirements for the production, processing, or consumption of Schedule 2A chemicals when the total amount of PFIB produced, processed, or consumed at one or more plants on a plant site during a calendar year does not exceed the applicable verification threshold). If a plant site (or a person or trading company) exported or imported the same quantity of PFIB (900 kg) as a mixture containing 10% PFIB, then the CWCR declaration/reporting requirements for exports or imports of Schedule 2A chemicals would not apply to the quantity of PFIB in the mixture. This is because even though the total amount of PFIB exported or imported (900 kg) exceeds the applicable CWCR declaration

threshold (100 kg), a mixture that contains 10% PFIB would not exceed the 10% low concentration exemption for mixtures containing Schedule 2A chemicals.

(4) If the calendar year production of PFIB at one or more plants on a plant site totaled 1.1 MT of PFIB as a mixture containing a concentration of 10% PFIB, then the Schedule 2A declaration requirements in the CWCR would apply to the quantity of PFIB in the mixture, because 1.1 MT of PFIB exceeds the 1 MT verification threshold, which means that the applicable low concentration exemption for mixtures containing Schedule 2A chemicals would be 1% or less, instead of 10% or less (the latter exemption level applies when the total amount of PFIB produced, processed, or consumed at one or more plants at a plant site does not exceed the 1 MT verification threshold). Under these circumstances, the amount of PFIB in mixtures of PFIB with a concentration of more than 1% must be included in the calculation of the amount produced, processed, or consumed, for declaration purposes. If a plant site (or a person or trading company) exported or imported the same quantity of PFIB (1.1 MT) as a mixture containing PFIB at a concentration of 10%, the CWCR declaration/reporting requirements for exports or imports of Schedule 2A chemicals would not apply to the quantity of PFIB in the mixture, because a mixture containing 10% PFIB does not exceed the 10% low concentration exemption for mixtures containing Schedule 2A chemicals.

(5) If the calendar year production of PFIB at one or more plants on a plant site totaled 900 kg of PFIB as a mixture containing PFIB at a concentration of 11%, then the declaration requirements in the CWCR would apply to the quantity of PFIB in the mixture, because 900 kg of PFIB exceeds the 100 kg declaration threshold and a mixture that contains PFIB at a concentration of 11% exceeds the 10% low concentration exemption, which applies when the total amount of a Schedule 2A chemical produced, processed, or consumed at one or more plants at a plant site does not exceed the verification threshold (1 MT of PFIB). Under these circumstances, the quantity of PFIB in mixtures containing PFIB at a concentration of more than 10% must be included in the calculation of the amount produced, processed, or consumed, for declaration purposes. If a plant site (or a person or trading company) exported or imported the same quantity of PFIB (900 kg) as a mixture containing PFIB at a concentration of 11%, then the CWCR

declaration/reporting requirements for exports or imports of Schedule 2A chemicals would apply to the quantity of PFIB in the mixture because the total amount of PFIB exported or imported (900 kg) exceeds the applicable declaration/reporting requirement threshold in the CWCR (100 kg) and a mixture that contains PFIB at a concentration of 11% exceeds the 10% low concentration exemption for mixtures containing Schedule 2A chemicals.

BIS is seeking public comments on the potential effects of amending the CWCR declaration requirements that apply to the production, processing, and consumption of Schedule 2A chemicals by reducing the concentration level at which certain mixtures containing low concentrations of Schedule 2A chemicals would be exempt from these requirements. Specifically, the current exemption, which applies when the concentration of the Schedule 2A chemical in the mixture is "less than 30%" by volume or weight (whichever method yields the lesser percentage), would be replaced by a two-tiered exemption under which the following mixtures would be exempt: (1) Mixtures containing a Schedule 2A chemical at a concentration of "1% or less" by volume or weight (whichever method yields the lesser percentage) and (2) mixtures containing a Schedule 2A chemical at a concentration of "more than 1%, but less than or equal to 10%" by volume or weight (whichever method yields the lesser percentage), provided that the total amount of the Schedule 2A chemical produced, processed, or consumed at one or more plants on a plant site during a calendar year is less than the applicable verification threshold in the CWCR. The public comments received in response to this notice of inquiry will assist BIS in assessing the impact of this change on U.S. persons involved in the production, processing, or consumption of Schedule 2A chemicals.

Additionally, BIS is seeking public comments on the potential effects of amending the CWCR declaration/reporting requirements that apply to certain exports or imports of Schedule 2A chemicals by reducing the exemption for mixtures containing low concentrations of Schedule 2A chemicals from the current level of "less than 30%" by volume or weight (whichever yields the lesser percentage) to a concentration of "10% or less" by volume or weight (whichever yields the lesser percentage). In particular, BIS seeks comments on the potential impact of these changes on costs, operations, and trade.

Finally, BIS is seeking public comments on the anticipated impact of these changes with respect to an existing collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA). Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the PRA, unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. The changes that are being considered by BIS would revise an existing collection of information subject to the requirements of the PRA. This collection has been approved by OMB under Control Number 0694-0091 (Chemical Weapons Convention—Declaration and Report Forms), which carries burden hour estimates of 10.6 hours for Schedule 1 Chemicals, 11.9 hours for Schedule 2 chemicals, 2.5 hours for Schedule 3 chemicals, 5.3/5.1/5.1 hours for unscheduled discrete organic chemicals (includes Annual Declaration on Past Activities, No Changes Authorization Form, and Change in Inspection Status Form, respectively), and 0.17 hours for Schedule 1 notifications.

Specifically, these changes would affect this approved information

collection with respect to information collection activities (*e.g.*, declarations, reports, recordkeeping) involving CWC Schedule 2A chemicals that are subject to declaration and/or reporting requirements under the CWC. In this regard, BIS is seeking comments that address the anticipated impact of the changes being considered by BIS on the burden hours and costs associated with Schedule 2A chemical activities under this approved information collection.

Send comments regarding this collection of information, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, as indicated in the **ADDRESSES** section of this notice.

#### Submission of Comments

All comments must be submitted to the address indicated in this notice. The Department requires that all comments be submitted in written form.

The Department encourages interested persons who wish to comment to do so at the earliest possible time. The period for submission of comments will close on August 12, 2011. The Department will consider all comments received before the close of the comment period. Comments received after the end of the

comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them. All comments submitted in response to this notice will be a matter of public record and will be available for public inspection and copying.

The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays public comments on the BIS Freedom of Information Act (FOIA) Web site at <http://www.bis.doc.gov/foia>. This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration, at (202) 482-2165, for assistance.

Dated: July 1, 2011.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

[FR Doc. 2011-17488 Filed 7-12-11; 8:45 am]

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