
TSCA SECTION 12 (b) EXPORTER NOTIFICATION PROCEDURE

INTRODUCTION

PURPOSE

To outline the steps required for the exportation of chemical substances (including microorganisms) and provide proper notification of intent to export chemicals under the Toxic Substances Control Act.

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REASON FOR ISSUE:

To define an internal process for complying with the TSCA export requirements for chemical substances (including microorganisms). This procedure documents the elements of the program.

DESCRIPTION OF CHANGE:

New

DISTRIBUTION:

Department Head(s)
TSCA Coordinator
EH & S

1.0 GENERAL

TSCA is intended to assure protection of health and the environment from unreasonable risks associated with chemical substances, whether they are produced domestically or imported into the United States. Under Section 12 (b) of TSCA, an individual who intends to export a chemical may be required to provide notification to the EPA of intent to export. The purpose of the export notification requirement is to inform any foreign government that is receiving a chemical of any significant regulatory action that has been initiated in the United States with respect to that chemical.

Any and all chemical substances intended for export by University representatives may require an export notification to the intended country of export if TSCA actions or proposed actions apply. Failure to meet these requirements could result in significant fines and penalties for the University. The University's EH& S Department should be consulted prior to any exportation of chemical substances.

2.0 DEFINITIONS

Chemical Substance

Section 3 of TSCA defines a "chemical substance" as:

"...any organic or inorganic substance of a particular molecular identity, including (i) any combination of such substances occurring in whole or in part as a result of a chemical reaction or occurring in nature and (ii) any element or uncombined radical."

51 FR 23313, (June 26, 1986) expanded the definition of a chemical substance to include microorganisms.

Certain chemicals are excluded from the definition of chemical substance subjected to TSCA rules and orders based on their use. These include, but are not limited to:

- Tobacco or any tobacco product
- Pesticides
- Source material, special nuclear material or byproduct material
- Firearms or ammunition
- A food, food additive, drug, cosmetic or device

Export notification of the above mentioned chemical substances is not required. Section 3 of TSCA provides a complete definition of substances regulated under TSCA.

Exporter

An exporter is 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.

3.0 NOTIFICATION REQUIREMENTS

Exporters must notify EPA of their export or intended export of each regulated chemical in writing 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 agreement).

The notice to the EPA should contain:

- The name of the regulated chemical (and category, if regulated) as it appears in the Section 4, 5, 6 or 7 action.
- The name and address of the exporter.
- The date(s) of export or intended export.
- The section (4, 5, 6 or 7) of TSCA under which EPA has taken action.

4.0 SUPPLEMENTARY INFORMATION

Notice must be given 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 of TSCA.

Notice must be given for the first export or intended export to a particular country when data are required under Section 4.

Section 4 – Test Rules

Section 4 authorizes EPA to require chemical manufacturers or processors of chemical substances and mixtures to test these chemicals to determine whether they have adverse health or environmental effects. Section 4 (a) allows the EPA to promulgate rules which require such testing and gives EPA implied authority to enter into enforceable consent agreements requiring testing where they provide procedural safeguards equivalent to those that apply where testing is conducted by rule. If a chemical substance is subject to Section 4 rulings, notice of intent to export must be given.

Section 5 – New Chemical Substances

Under Section 5, persons who intend to manufacture a new chemical substance (one that is not already in commerce in the United States, based on EPA's TSCA Inventory of Chemical Substances) must get EPA approval by submitting a pre-manufacture notice to the EPA at least 90 days prior to importation. This allows EPA to determine whether the new chemical may present an unreasonable risk to human health or the environment. In addition, EPA may designate the use of a chemical substance as a "significant new use" which requires submission of information. Exporters must determine whether the chemical they intend to

export is subject to any orders, proposed or promulgated rules or under section 5, or subject to data submission requirements under section 5(b). If so, notice of intent to export must be given.

Section 6 – Regulation of Hazardous Chemical Substances

Under Section 6 the EPA may take regulatory action to protect against unreasonable risk of injury to human health or the environment due to the importation of a chemical substance or mixture. Exporters must determine whether the chemical substance that they are exporting is subject to a proposed or promulgated rule, order or action under section 6. If the chemical intended for export is subject to section 6 actions, notice of intent to export must be given.

Section 7 – Imminent Hazards

Section 7 authorizes EPA to begin judicial action against importers and to seize chemical substances that it has determined are imminently hazardous. Exporters must determine whether the chemical substance that they intend to export is subject to any rule, order, action or relief under section 7.

5.0 TSCA EXPORTATION PROCEDURE

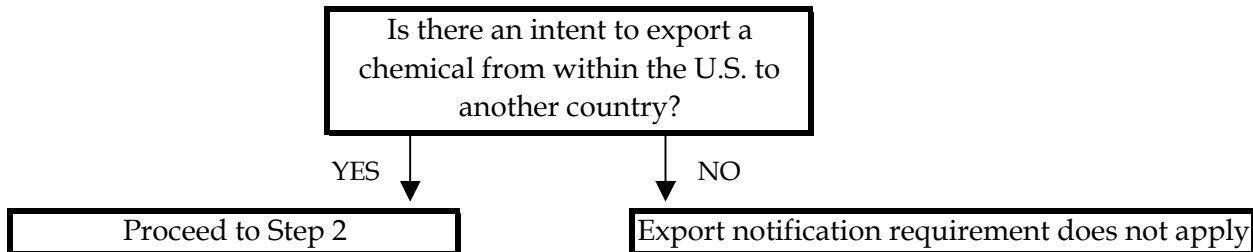
The following steps are depicted in the attached flowchart that is included at the end of this section. Please utilize the flowchart when determining TSCA exportation requirements for each specific case.

- 1). Determine if a chemical substance is being exported or if there is an intent to export.
- 2). Determine whether the imported chemical substance is regulated under TSCA. Chemical substances that are not currently regulated under TSCA (ie. pesticides, food, cosmetics) do not require an export notification.
- 3). Determine whether chemical substance is regulated under TSCA Section 4. Confirm whether or not the chemical substance is listed on the current CORR (Chemical on Reporting Rules) Database (maintained by EH& S). If the chemical substance is subject to data submission requirements under section 4, an export notification must be filed the first time that chemical substance is exported to a particular country, different export countries require their own export notification. EH& S will indicate whether or not such a notice has previously been filed.
- 4). File notice if chemical substance subject to Section 4 requirements is being exported to a country for the first time.

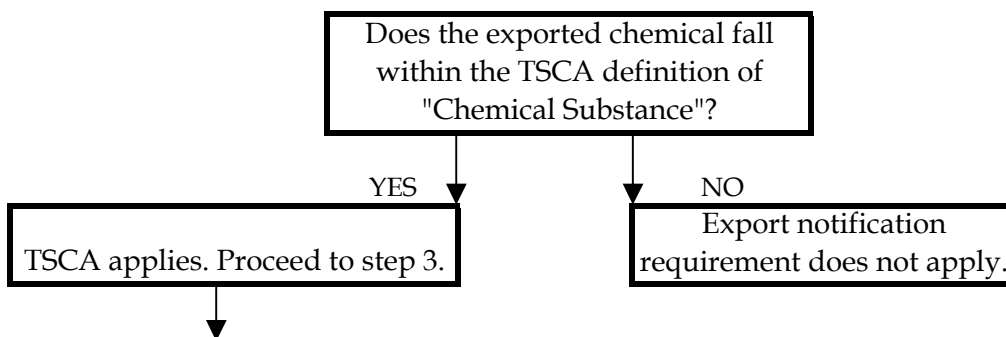
- 5). Chemical substances may be subject to data submission requirements under Section 5(b), or rules, orders, actions or relief under Sections 5, 6 or 7 of TSCA. Determine whether Section 5, 6 or 7 apply by checking the CORR database. If chemical substance is subject to Sections 5, 6 or 7, notice of intent to export must be filed on an annual basis for the subject chemical to all intended countries of export. EH&S will indicate whether or not such notice has been filed for the calendar year.
- 6). File notice of intent to export if subject chemical is being exported to a country for the first time in the calendar year.
- 7). Keep one copy of the export notice and forward one copy to EH& S.

TSCA SECTION 12 (b) EXPORTER NOTIFICATION PROCEDURE FLOWCHART

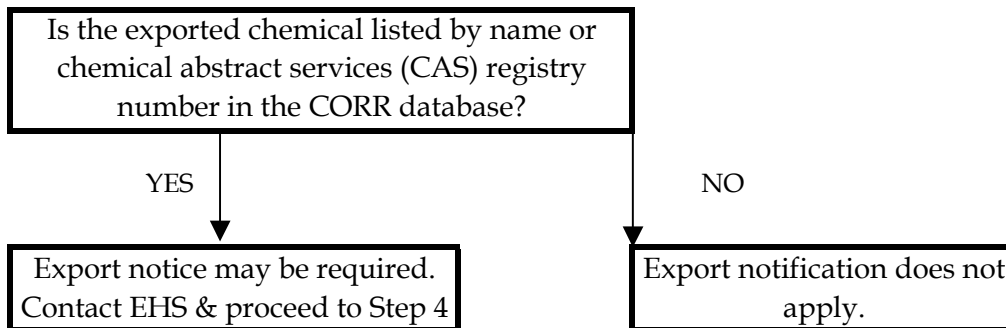
STEP 1 Determine if there is intent to export chemical:



STEP 2 Determine whether exported chemical comes under the authority of TSCA

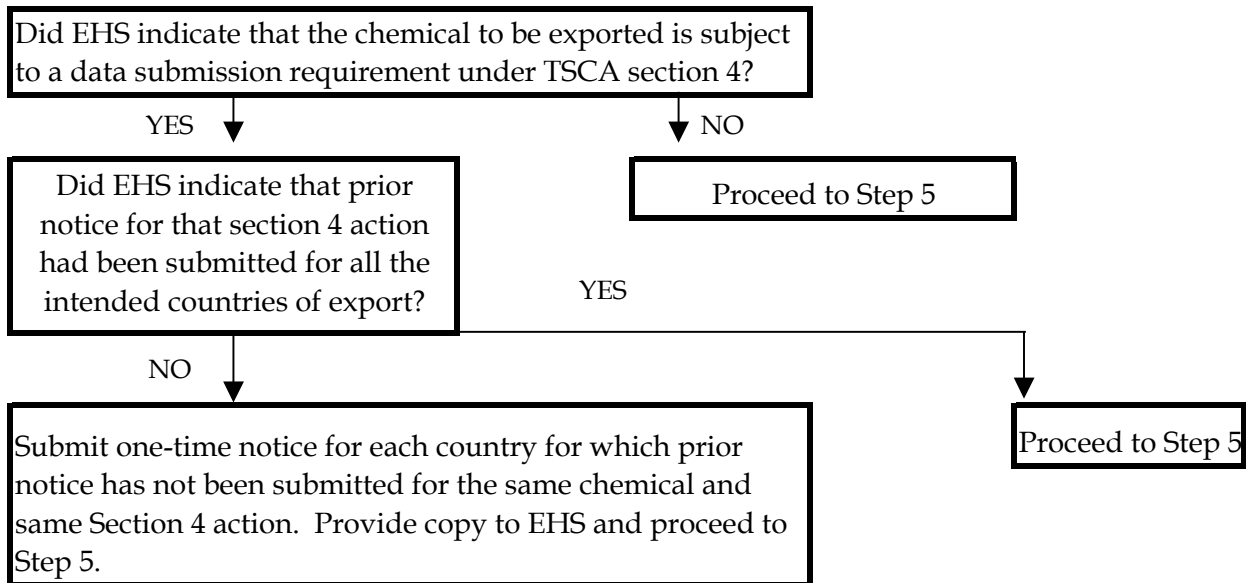


STEP 3 Determine if exported chemical is regulated under TSCA section that triggers notification



TSCA SECTION 12 (b) EXPORTER NOTIFICATION PROCEDURE FLOWCHART

STEP 4 Determine if onetime TSCA Section 4 Export Notice is required



STEP 5 Determine if annual Section 5, 6 or 7 Export Notice is required:

