

the law. For the next 30 days, NRCS will receive comments on the proposed changes. Following that period, a determination will be made by NRCS regarding disposition of those comments, and a final determination of change will be made.

Signed in Washington, DC, on November 19, 2003.

**Thomas A. Weber,**

*Associate Chief, Natural Resources Conservation Service.*

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

[Docket No. 031114279-3279-01]

#### Impact of Implementation of the Chemical Weapons Convention on Commercial Activities Involving "Schedule 1" Chemicals Through Calendar Year 2003

**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 that implementation of the Chemical Weapons Convention has had on commercial activities involving "Schedule 1" chemicals through calendar year 2003. This notice of inquiry is part of an effort to collect information to assist in the preparation of the annual Presidential certification required under Condition 9 of Senate Resolution 75, April 24, 1997, in which the Senate gave its advice and consent to the ratification of the Chemical Weapons Convention.

**DATES:** Comments are due December 22, 2003.

**ADDRESSES:** Written comments (three copies) should be submitted to Willard Fisher, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230. In order to meet the due date for comments, single copies may be faxed to (202) 482-3355, provided that you follow up by submitting the appropriate number (three copies) of written comments.

**FOR FURTHER INFORMATION CONTACT:** For questions on the Chemical Weapons Convention requirements for "Schedule 1" chemicals, contact Larry Denyer, Treaty Compliance Division, Office of Nonproliferation Controls and Treaty

Compliance, Bureau of Industry and Security, U.S. Department of Commerce, Phone: (703) 605-4400. 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

In its resolution to advise and consent to the ratification of the Chemical Weapons Convention (Convention) (S. Res. 75, April 24, 1997), the Senate included several conditions. Condition 9 of Senate Resolution 75, titled "Protection of Advanced Biotechnology," provides that the President shall certify to the Congress on an annual basis that "\* \* \* the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 \* \* \*". In 2000, 2001, and 2002, the President certified to Congress that these firms were not significantly harmed by the Convention's Schedule 1 limitations. The Bureau of Industry and Security is collecting data to assist in determining the impact, if any, that the implementation of the Convention's requirements have had on commercial "Schedule 1" activities through calendar year 2003.

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), is an international arms control treaty that establishes the Organization for the Prohibition of Chemical Weapons (OPCW) to implement the verification provisions of the treaty. The CWC imposes a number of obligations on countries that have ratified the Convention (States Parties), including enactment of legislation to prohibit the production, storage, and use of chemical weapons, and establishment of a National Authority for liaison with the OPCW and other States Parties. The CWC also requires States Parties to implement a comprehensive data declaration and inspection regime 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.

"Schedule 1" chemicals are those toxic chemicals and precursors

identified in the Convention as posing a high risk to the object and purpose of the Convention. The "Schedule 1" chemicals are set forth in the Convention's "Annex on Chemicals," as well as in Supplement No. 1 to part 712 of the Chemical Weapons Convention Regulations (15 CFR part 712).

The "Schedule 1" provisions of the Convention that affect commercial activities are implemented through part 712 of the Chemical Weapons Convention Regulations and parts 742 and 745 of the Export Administration Regulations, both administered by the Bureau of Industry and Security. These regulations:

(1) Prohibit the import of "Schedule 1" chemicals from States not Party to the Convention (15 CFR 712.2);

(2) Require annual declarations by certain facilities engaged in the production of "Schedule 1" chemicals in excess of 100 grams aggregate per calendar year (*i.e.*, declared "Schedule 1" facilities) for purposes not prohibited by the Convention (15 CFR 712.3(a)(2) and (a)(3));

(3) Require government approval of "declared Schedule 1" facilities (15 CFR 712.3(e));

(4) Provide that "declared Schedule 1" facilities are subject to initial and routine inspection by the Organization for the Prohibition of Chemical Weapons (15 CFR 712.3(d));

(5) Require 200 days advance notification of establishment of new "Schedule 1" production facilities producing greater than 100 grams aggregate of "Schedule 1" chemicals per calendar year (15 CFR 712.4);

(6) Require advance notification and annual reporting of all imports and exports of "Schedule 1" chemicals to, or from, other States Parties to the Convention (15 CFR 712.5, 742.18(a)(1) and 745.1); and

(7) Prohibit the export of "Schedule 1" chemicals to States not Party to the Convention (15 CFR 742.18).

#### Discussion and Request for Comments

In order to assist in determining whether the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are being significantly harmed by the limitations of the Convention on access to, and production of, "Schedule 1" chemicals, BIS is seeking public comments on any effects that implementation of the Chemical Weapons Convention has had on commercial activities involving "Schedule 1" chemicals through calendar year 2003.