

Proposing waivers through ePIC

Regulation (EU) No 649/2012 (also known as the PIC Regulation) established that exporters may request waivers for exports of Annex I Part 2 and Part 3 chemicals or mixtures in the absence of positive or negative explicit consent response. Waivers should however not be considered as a bypass for explicit consent requirements. A waiver proposal must always be accompanied by a mandatory document justifying the request and it can only be made through the ePIC tool. In order to become applicable, the waiver proposal must be agreed by the DNA and by the European Commission.

Two types of waivers

There are two types of waivers: the so-called standard waivers and OECD waivers. The conditions for proposing a waiver and the validity period differ by the waiver type. Both waiver types are exporter-specific and subject to case-by-case approval.

Standard waiver

Pursuant to Article 14(7) of the PIC Regulation, an exporter can propose a standard waiver in case:

- an export notification has been submitted to the DNA and a RIN has been assigned;
- the notification is for a chemical/mixture listed in **Annex I Part 2 or 3**;
- the importing country has not responded **within 60 days** from the date of requesting an explicit consent;
- there is documentary evidence that the chemical is licensed, registered or authorised in the importing country.

The maximum validity period of a standard waiver is 12 months.

OECD waiver

Pursuant to Article 14(6) of the PIC Regulation, an exporter can propose an OECD waiver in case

- the importing country is an **OECD country**;
- an export notification has been submitted to the DNA and a RIN has been assigned;
- the notification is for a chemical/mixture listed in **Annex I Part 2**;
- there is documentary evidence that the chemical is licensed, registered or authorised in the importing country

An OECD waiver can be proposed any time after the submission of an export notification (i.e. the 60-day waiting period need not be respected). OECD waivers are currently RIN-specific, i.e. they expire at the end of the calendar year.

How to propose waivers

Regardless of the waiver type, the proposal must always be initiated by the exporter through the ePIC tool.

The waiver proposal is to be launched by opening the export notification concerned. The "Propose waiver" functionality is available under the "Action" drop-down menu, in the upper right corner of the export notification. The application offers a pre-filled waiver proposal form.

Submission of the proposal will only be allowed once a mandatory supporting document is attached and the appropriate legal declaration(s) are selected. The submitted proposal will become subject to the DNA's and Commission's approval.

Important to remember:

- As standard waivers can be requested at the earliest 60 days after the initial request for an explicit consent, verify from the "Event history" when the explicit consent was originally requested by the DNA.
- At least one document justifying the waiver proposal must be attached.
- Waivers cannot be proposed for notification whose status is "Draft".
- Users can follow the status of the waiver proposal from the "Event history".

Further information and support

Article 14(6) and 14(7) of the PIC Regulation:

<http://www.echa.europa.eu/web/guest/regulations/prior-informed-consent/legislation>

ePIC User Manual for Industry:

http://www.echa.europa.eu/documents/10162/21731237/epic_usm_industry_en.pdf