

that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

§ 12.121 Reporting requirements.

(a) *Chemical substances in bulk or mixtures—(1) Certification required.* The importer of a chemical substance imported in bulk or as part of a mixture, or the authorized agent of such an importer, must certify either that the chemical shipment is subject to TSCA and complies with all applicable rules and orders thereunder, or that the chemical shipment is not subject to TSCA, by signing and filing with Customs one of the following statements:

I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order thereunder.

I certify that all chemical substances in this shipment are not subject to TSCA.

(2) *Filing of certification—(i) General.* The appropriate certification required under paragraph (a)(1) of this section must be filed with the director of the port of entry before release of the shipment and, except when a blanket certification is on file as provided for in paragraph (a)(2)(ii) of this section, must appear as a typed or stamped statement:

(A) On an appropriate entry document or commercial invoice or on an attachment to that entry document or invoice; or

(B) In the event of release under a special permit for an immediate delivery as provided for in §142.21 of this chapter or in the case of an entry as provided for in §142.3 of this chapter, on the commercial invoice or on an attachment to that invoice.

(ii) *Blanket certifications.* A port director may, in his discretion, approve an importer's use of a "blanket" certification, in lieu of filing a separate certification for each chemical shipment, for any chemical shipment that conforms to a product description provided to Customs pursuant to paragraph (a)(2)(ii)(A) of this section. In approving the use of a "blanket" certification, the port director should con-

sider the reliability of the importer and Customs broker. Approval and use of a "blanket" certification will be subject to the following conditions:

(A) A "blanket" certification must be filed with the port director on the letterhead of the certifying firm, must list the products covered by name and Harmonized Tariff Schedule of the United States subheading number, must identify the foreign supplier by name and address, and must be signed by an authorized person;

(B) A "blanket" certification will remain valid, and may be used, for 1 year from the date of approval unless the approval is revoked earlier for cause by the port director. Separate "blanket" certifications must be approved and used for chemical substances that are subject to TSCA and for chemical substances that are not subject to TSCA; and

(C) An importer for whom the use of a "blanket" certification has been approved must include, on the invoice used in connection with the entry and entry summary procedures for each shipment covered by the "blanket" certification, a statement referring to the "blanket" certification and incorporating it by reference. This statement need not be signed.

(b) *Chemical substances or mixtures as parts of articles.* Each importer of a chemical substance or mixture as part of an article must comply with the certification requirements set forth in paragraph (a) of this section only if required to do so by a rule or order issued under TSCA.

(c) *Facsimile signatures.* The certification statements required under paragraph (a)(1) of this section may be signed by means of an authorized facsimile signature.

[T.D. 00-13, 65 FR 10704, Feb. 29, 2000]

§ 12.122 Detention of certain shipments.

(a) The director of the port of arrival shall detain, at the importer's risk and expense, shipments of chemical substances, mixtures, or articles:

(1) Which have been banned from the customs territory of the United States by a rule or order issued under section 5 or 6 of TSCA (15 U.S.C. 2604 or 2605) or

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(2) Which have been ordered seized because of imminent hazards as specified under section 7 of TSCA (15 U.S.C. 2606).

(b) The director of the port of entry shall detain shipments of chemical substances, mixtures, or articles at the importer's risk and expense, in the following situations:

(1) Whenever the Administrator has reasonable grounds to believe that the shipment is not in compliance with TSCA and notifies the port director to detain the shipment.

(2) Whenever the port director has reasonable grounds to believe that the shipment is not in compliance with TSCA; or

(3) Whenever the importer fails to certify compliance with TSCA as required by § 12.121.

(c) Upon detention of a shipment, the port director shall give prompt notice to the Administrator and the importer. The notice shall include the reasons for detention.

(d) A detained shipment shall not be held in the custody of the port director for more than 48 hours after the date of detention. Thereafter, the shipment shall be promptly turned over to the Administrator for storage or disposition as provided for in §§ 12.127 and 127.28(i), unless previously released to the importer under bond as provided in § 12.123(b). Notice of intent to abandon the shipment by the importer shall constitute a waiver of all time periods specified in parts 12 and 127.

§ 12.123 Procedure after detention.

(a) *Submission of written documentation.* If a shipment is detained by a port director under § 12.122, the importer may submit written documentation to the Administrator with a copy to the port director within 20 days from the date of notice of detention, to show cause why the shipment should not be refused entry. If an importer submits that documentation, the Administrator shall allow or deny entry of the shipment within 10 days of receipt of the documentation, and in any case shall allow or deny entry of the shipment within 30 days of the date of notice of detention.

(b) *Release under Bond.* The port director may release to the importer a

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shipment detained for any of the reasons given in § 12.122 when the port director has reasonable grounds to believe that the shipment may be brought into compliance, or when the port director deems it appropriate under § 141.66 of this chapter. Any such release shall be conditioned upon furnishing a bond on Customs Form 7551, 7553, or 7595 for the return of the shipment to Customs custody. The bond shall be for the full amount required in § 113.14 of this chapter. If a shipment of chemical substance, mixture, or article is released to the importer under bond, the shipment shall be held intact and shall not be used or otherwise disposed of until the Administrator makes a final determination on entry as provided for in paragraph (c) of this section.

(c) *Determination by the Administrator.* After consideration of the available evidence and within 30 days from the notice of detention, the Administrator shall notify the port director and the importer of his decision either to permit or refuse entry of the shipment. If the Administrator finds that the shipment is in compliance with TSCA, the port director shall release the shipment to the importer. If the Administrator finds that the shipment is not in compliance, the port director shall:

(1) Refuse delivery to the importer, giving reasons for such refusal, or

(2) If the shipment has been released on bond, demand its redelivery under the terms of the bond, giving reasons for such demand. If the merchandise is not redelivered within 30 days from the date of the redelivery notice, the port director shall assess liquidated damages in the full amount of the bond.

§ 12.124 Time limitations and extensions.

(a) *Time limitations.* The importer of a shipment of chemical substances, mixtures, or articles which has been detained under § 12.122 shall bring the shipment into compliance with TSCA or export the shipment from the customs territory of the United States within 90 days after notice of detention or 30 days of demand for redelivery, whichever comes first.