containers be properly marked to indicate their origin, contents, or condition, or may permit the articles to be exported or destroyed under Customs supervision, and without expense to the Government.

(d) Articles forfeited for violation of section 294, 1124, or 1125, Title 15 and section 545, Title 18, U.S. Code, may be disposed of in accordance with the procedure applicable to other Customs forfeitures, but may not be released from Customs custody except upon the removal by and at the expense of the party in interest of the prohibited marking by reason of which the articles were seized, except articles disposed of under §133.52 (a) or (b) of this chapter.


PART 12—SPECIAL CLASSES OF MERCHANDISE

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No food, drug, device, cosmetic, pesticide, hazardous substance, or dangerous caustic or corrosive substance, the subject of §12.1 shall be released except in accordance with the laws and regulations applicable thereto. Where any such merchandise is to be released under bond pursuant to regulations applicable thereto, a bond on Customs
§ 12.4

Form 301, containing the bond conditions set forth in § 113.62 of this chapter shall be required.


§ 12.4 Exportation.

The exportation of merchandise, the subject of § 12.1, refused admission into the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter.


§ 12.5 Shipment to other ports.

When imported merchandise, the subject of § 12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier’s manifest, Customs Form 7512, in the same manner as shipments in bond.


§ 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by:

(1) An affidavit, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No. 11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in Puerto Rico or areas outside the Customs territory of the United States. Proof of actual consumption shall be furnished to the appropriate Customs officer within three years after the date such cheese is entered or withdrawn from warehouse, for consumption.

(b) These affidavits shall not be required to accompany imports of cheese produced in the member states of the European Communities if such cheese is shipped directly to the United States (excluding Puerto Rico) from the country of origin on a through bill of lading.

[T.D. 75–210, 40 FR 36767, Aug. 22, 1975]

§ 12.7 Permits required for importation.

(a) Under the Act of February 15, 1927 (44 Stat. 1101, as amended, 21 U.S.C. 141–149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health and Human Services. Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration.

(b) The regulations of the Department of Health and Human Services under the said act require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations.

§ 12.8 Inspection; bond; release.

(a) All imported meat, meat-food products, horse meat and horse meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930. The term “meat and meat-food products,” for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession. Such meat, meat-food products, horse meat and horse meat-food products shall not be released from Customs custody prior to inspection by an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, except when authority is given by such inspector for inspection at the importer’s premises or other place not under Customs supervision. In such case a bond for the return to Customs custody prior to inspection by an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, except when authority is given by such inspector for inspection at the importer’s premises or other place not under Customs supervision. In such case a bond for the return to Customs custody of the merchandise shall be given by the consignee or agent on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, with import-meat seals furnished by the Department of Agriculture unless bearing United States Customs seals, or in the case of packages otherwise identified as provided for in this section. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a Customs officer or inspector of the Meat Inspection Division, Agricultural Research Service.

(b) Liquidated damages assessed for breach of a bond taken under this section, if not in excess of $100,000, and if a written application for relief is filed, may be canceled by the port director upon the payment of less than the full amount as he shall deem appropriate, or without the payment of any amount, as may be deemed appropriate, but the Fines, Penalties, and Forfeitures Officer shall not act under this paragraph unless the officer in charge of the local office of the Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture, is in full agreement with the proposed action. If there is no local inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, the port director shall not act unless he has obtained the full agreement of the Food Safety and Inspection Service, Meat and Poultry Inspection in Washington.

§ 12.9 Release for final delivery to consignee.

No meat, meat-food products, or animal casings shall be released for final delivery to the consignee until the port
§ 12.10 Regulations and orders of the Department of Agriculture.

The importation into the United States of plants and plant products is subject to regulations and orders of the Department of Agriculture restricting or prohibiting the importation of such plants and plant products. Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations and orders of the Department of Agriculture and the provisions of law under which they are made.

§ 12.11 Requirements for entry and release.

(a) The importer or his representative shall submit to the director of the port of first arrival, for each entry of plants or plant products requiring a plant quarantine permit, a notice of arrival for any type of entry except re-warehouse and informal mail entries. Such notice shall be on a form provided for the purpose by the Department of Agriculture. The director of the port of arrival shall compare the notice of arrival which he receives from the importer or his representative with the shipping documents, certify its agreement therewith, and transmit it, together with any accompanying certificates or other documents pertaining to the sanitary status of the shipment, to the Department of Agriculture. The merchandise may not be moved, stored, or otherwise disposed of until the notice of arrival has been submitted and release for the intended purpose has been authorized by an inspector of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs.

(b) Where plant or plant products are shipped from the port of first arrival to another port or place for inspection or other treatment by a representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and all Customs requirements for the release of the merchandise have been met, the merchandise shall be forwarded under a special manifest (Customs Form 7512) and in-bond labels or Customs seals to the representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs at the place at which the inspection or other treatment is to take place. No further release by the port director shall be required.


§ 12.12 Release under bond.

Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant approved by the Department of Agriculture upon the giving of a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to Customs custody when demanded by the port director.


§ 12.13 Unclaimed shipments.

(a) If plants or plant products enterable into the United States under the rules and regulations promulgated by the Secretary of Agriculture are unclaimed, they may be sold subject to the provisions of subparts C and D of part 127 of this chapter to any person to whom a permit has been issued who can comply with the requirements of the regulations governing the material involved.

(b) Unclaimed plants and plant products not complying with the requirements mentioned in this section shall be destroyed, by burning or otherwise, under Customs supervision.


§ 12.14 Detention.

(a) Port directors shall refuse release of all plants or plant products with respect to which a notice of prohibition has been promulgated by the Secretary of Agriculture under any of the various...
§ 12.18 Labels.

Each separate container of such virus, serum, toxin, or analogous product imported is required by the regulations of the Department of Agriculture to bear the true name of the product and the permit number assigned by the Department of Agriculture in the following form: “U.S. Veterinary Permit No. ————,” or an abbreviation thereof authorized by the Animal and Plant Health Inspection Service, Veterinary Services. Each separate container also shall bear a serial number affixed by the manufacturer for identification of the product with the records they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the port director may release the shipment, pending examination and decision in the matter, upon the giving of a bond. The bond shall be filed with the port director on Customs Form 301 and contain the bond conditions set forth in §113.62 of this chapter. In case of default the port director shall issue a claim for liquidated damages under the bond.

§ 12.19 Detention; samples.

(a) The port director shall detain all shipments of such products for which no permit to import has been issued pending instructions from the Department of Agriculture.

(b) Samples shall be furnished to the Department of Agriculture upon its request, and the port director shall immediately notify the consignee of any such request.

§ 12.20 Disposition.

Viruses, serums, or toxins rejected by the Department of Agriculture shall be released by the port director to that Department for destruction, or exported under Customs supervision at the expense of the importer if exportation is authorized by the Department of Agriculture.

§ 12.21 Licensed establishments.

The bringing into the United States for sale, barter, or exchange, of any virus, therapeutic serum, toxin, antitoxin, or analogous product, or arsphenamine or its derivatives (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of diseases or injuries of man is prohibited unless such virus, serum, toxin, antitoxin, or other product has been manufactured at an establishment holding an unsuspended and unrevoked license issued by the Secretary of Health and Human Services for such manufacture.


§ 12.22 Labels; samples.

Each package of such products imported for sale, barter, or exchange shall be labeled or plainly marked with the name, address, and license number of the manufacturer, and the date beyond which the contents cannot be expected to yield their specific results. From each lot of product the port director shall select at random at least two final containers. The random sample together with a copy of the associated documents which describe and identify the shipment shall be forwarded to the Director, Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, Md. 20014. For shipments of 20 or less final containers, samples need not be forwarded, provided a copy of an official release from the Bureau of Biologics accompanies each shipment.


§ 12.23 Detention; examination; disposition.

(a) Port directors shall detain all importations of unlicensed viruses, therapeutic serums, toxins, antitoxins, and analogous products, and arsphenamines or its derivatives (or any other trivalent organic arsenic compound) for the treatment or cure of diseases or injuries of man pending examination by the Director, Bureau of Biologics, unless satisfied from evidence furnished at the time of entry that the products are intended solely for purposes of controlled investigation and not for sale, barter, or exchange, as evidenced by a copy of a filed “Notice of Claimed Investigational Exemption for a New Drug,” pursuant to §312.1 of the Food, Drug, and Cosmetic Act Regulations (21 CFR 312.1), or are being imported under the short supply provisions of §601.22 of the Public Health Service Regulations (42 CFR 601.22).

(b) If the shipment is imported for sale, barter, or exchange and is found by the Director, Division of Biologics Standards, to be admissible, the port director shall release it upon receipt of a report from him that the shipment is admissible.

(c) If the Director, Division of Biologics Standards, reports that the shipment was found upon examination not to conform to the law and the regulations, the port director shall not release the shipment but shall permit the exportation or destruction thereof under Customs supervision at the option of the importer.
United States Customs Service, Treasury

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered and threatened species; designated ports of entry; permits required.

(a)(1) The importation into the United States, the Commonwealth of Puerto Rico, and the territories and possessions of the United States of live specimens of:

(i) Any species of the so-called “flying fox” or fruit bat of the genus Pteropus;

(ii) Any species of mongoose or meerkat of the genera Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos, and Suricata;

(iii) Any species of European rabbit the genus Oryctolagus;

(iv) Any species of Indian wild dog, red dog, or dhole of the genus Cuon;

(v) Any species of multimammate rat or mouse of the genus Mastomys;

(vi) Any live specimens or egg of the species of so-called “pink starling” or “rosy pastor” Sturnus roseus;

(vii) The species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) Quelea quelea;

(viii) Any species of Java sparrow, Padda oryzivora;

(ix) The species of red-whiskered bulbul, Pycnonotus jocosus;

(x) Any live fish or viable eggs of the family Claridae;

(xi) Any other species of wild mammals, wild birds, fish (including mollusks and crustaceans), amphibians, reptiles, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulations to be injurious to human beings, to the interest of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is prohibited, except as may be authorized by the issuance of a permit by the Director, U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, DC 20240, or his authorized representative. If any such prohibited specimen is imported, or if any species or subspecies of other live or dead fish or wildlife, including any parts, products, or eggs thereof, appearing on the Endangered Species List published by the U.S. Fish and Wildlife Service, is

United States Customs Service, Treasury

§ 12.24 Regulations of the Department of Agriculture.

(a) The importation into the United States of domestic animals, animal products, and animal feeding materials is subject to inspection and quarantine regulations of the Department of Agriculture, Customs officers and employees are authorized and directed to perform such functions as are necessary or proper on their part to carry out such regulations of the Department of Agriculture.

(b) Inspection by an inspector of the Animal and Plant Health Inspection Service, Veterinary Services is required for all horses, cattle, sheep, other ruminants, and swine as a prerequisite to their entry from any foreign country. Orders listing the ports designated as quarantine stations for the inspection and quarantine of animals will be issued by the Secretary of Agriculture, with the approval of the Secretary of the Treasury, whenever conditions warrant.

(c) The entry of domestic animals may be made, but shall not be required, before the expiration of the quarantine period. Such animals, if not entered at the time of arrival, shall be considered as under general order while under quarantine and shall not be released except upon notice from the port director that the importer has complied with all the requirements for entry.

imported, Customs release of the prohibited specimen or endangered fish or wildlife shall be refused unless there has been issued and presented in connection with entry a proper U.S. Fish and Wildlife Service permit authorizing the import transaction. In the absence of such permit, injurious specimens prohibited entry shall be required to be immediately exported or destroyed. Changes in injurious species and endangered species or subspecies which are prohibited or restricted importation may be published from time to time in 50 CFR part 13—Importation of Wildlife or Eggs Thereof or in part 17—Conservation of Endangered Species and Other Fish or Wildlife. Unreleased species or subspecies of live or dead endangered fish or wildlife, including parts, products, or eggs thereof, shall remain under detention subject to seizure and delivery to an appropriate regional director or other agent of the U.S. Fish and Wildlife Service for disposition as appropriate pursuant to 50 CFR part 17.

(2) Fish and eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by the signed certification of a qualified fish pathologist in substantially the form as prescribed in 50 CFR 13.7. The following are excepted from the certification requirements:

(i) Salmon landed in North America and brought into the United States for processing or sale;

(ii) Any salmonid caught in the wild in North America under a sport or a commercial fishing license; and

(iii) Fish or eggs of the family Salmonidae when processed or prepared in accordance with 50 CFR 13.7(c), or otherwise exempted from the requirement of certification.

(3) Regulations (50 CFR part 17) require the importer or his agent to file a Declaration for the Importation of Fish or Wildlife, unless it is an import transaction exempted from the requirement by 50 CFR part 13 or part 17. Such declaration on U.S. Fish and Wildlife Service Form 3-177, available to importers through Customs ports of entry, shall be filed with the appropriate Customs officer at the port of entry conducting the actual Customs clearance and release of the declared fish, wild mammal, or bird, amphibian, reptile, mollusk, crustacean, or dead body or egg thereof. The declaration on Form 3-177 shall show the common and scientific names, number, and country of origin of all species or subspecies declared, designate and identify any species listed on the U.S. List of Endangered Foreign Fish and Wildlife, 50 CFR part 17, appendix A, and indicate whether any species is subject to laws and regulations in any foreign country regarding its taking, transportation, or sale. See paragraph (g) of this section for special documentation requirements.

(4) Federal agencies, subject to requirements in paragraph (a)(2) of this section, may import solely for their own use live wildlife except migratory birds, or their eggs, without a permit from the U.S. Fish and Wildlife Service, upon filing the declaration on Form 3-177. Importation of bald or golden eagles, or their eggs is prohibited.

(5) Customs entry for consumption or bonded warehousing of fish and wildlife, as defined in 50 CFR 17.2(e) and (f), intended for importation into the United States, or admission into a foreign trade zone, shall be filed at a port of entry among those designated for Customs entry in 50 CFR part 17, appendix B. However, Customs entry for consumption or bonded warehousing of shipments subject to emergency diversion or otherwise authorized under regulations or by permit issued by the U.S. Fish and Wildlife Service pursuant to 50 CFR part 17, appendices B and C, may be filed for examination and release at the ports of entry so named if permitted, but no consumption or bonded warehouse entry shall be filed or accepted at an undesignated port for any endangered specie or subspecie permitted importation pursuant to 50 CFR 17.12 except in the case of an emergency diversion of live endangered fish or wildlife accepted for such entry in accordance with item 2(b) of 50 CFR part 17, appendix B. Importations of fish and wildlife subject to regulations of the U.S. Fish and Wildlife Service which arrive from abroad at any place in the United States not designated as
an authorized port for Customs entry, unless occurring under conditions or circumstances in which Customs entry for consumption or bonded warehousing and final clearance has been authorized by U.S. Fish and Wildlife Service regulations or permit, may be entered only for immediate transportation without appraisement for movement under Customs bond to one of the designated ports of entry. Customs entry, release, and delivery of any shipment of shellfish and fishery products defined in 50 CFR 17.2(j) imported for commercial purposes is authorized at any port of entry, except insofar as such items include any species or subspecies which appears on the Endangered Species List in 50 CFR part 17, appendix A.

(b) Permits are required for the importation of wild animals and birds as follows:

(1) Wild birds protected by the Migratory Bird Treaty Act (16 U.S.C. 703 through 711) and the regulations promulgated thereunder (50 CFR part 10), may be imported from foreign countries for scientific, propagating, or other limited purposes only under permits issued by the U.S. Fish and Wildlife Service, United States Department of the Interior, Washington, DC, 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import migratory birds without a permit. Such migratory birds, when imported from Mexico, must be accompanied by Mexican export permits (50 CFR 15.3) when imported from Mexico. Such birds from Canada must be accompanied by a certificate issued by a Canadian Government veterinarian. All such birds must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(2) Game mammals (antelopes, mountain sheep, deer, bears, peccaries, squirrels, rabbits, and hares), protected by the Migratory Bird Treaty Act (16 U.S.C. 703 through 711), dead or alive, or their parts or products, must be accompanied by Mexican export permits (50 CFR 16.3 and 16.5).

(3) Wild ruminants (all animals which chew the cud, such as cattle, buffaloes, sheep, goats, deer, antelopes, camels, llamas, and giraffes) and swine (various varieties of wild hogs), except from Canada and certain northern States of Mexico may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, DC 20250. Such permits must be obtained before the animals are shipped from the country of origin. All wild ruminants and swine must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(4) Psittacine birds, which include all birds commonly known as parrots, Amazons, African grays, cockatoos, macaws, parrotlets, beebees, parakeets, lovebirds, lories, lorikeets, and all other birds of the order Psittaciformes, when destined for a zoological park or medical research institution without having had prior confinement and treatment abroad at an approved treatment center, and psittacine birds taken out of the United States but inadmissible under paragraph (c) of this section, may be imported when accompanied by a permit issued by the Surgeon General. Application for such a permit may be made to the Chief, Foreign Quarantine Program, National Communicable Disease Center, U.S. Public Health Service, Atlanta, Ga. 30333, or to a Public Health Service quarantine station established at a port of entry in the United States.

(5) Ducks, geese, swans, turkeys, pheasants, grouse, partridges, quail, guinea fowl, and peafowl, except from Canada, may be imported only under a permit from the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, Washington, DC 20250. Such permits must be obtained before the birds are shipped from the country of origin. Such birds from Canada must be accompanied by a certificate issued by a Canadian Government veterinarian. All such birds must be inspected at designated ports of entry by veterinarians of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture.

(c) Psittacine birds as defined in paragraph (b)(4) of this section, not to exceed two such birds by members of a family comprising a single household.
in any 12-month period, may be imported under prescribed conditions (see 42 CFR 71.164(e)) without permit and without prior confinement and treatment, to be kept as pets by the owner, who will be required to comply with the Foreign Quarantine Regulations of the U.S. Public Health Service. Birds taken out of the United States and being returned may be admitted, without permit, upon full compliance with prescribed conditions of those regulations for admission of birds imported as pets. No such birds shall be released until the importer has complied with applicable requirements of the Public Health regulations.

(d) Cats, dogs, and monkeys are subject to the Foreign Quarantine Regulations of the United States Public Health Service, Department of Health, Education, and Welfare, Washington, D.C. Such animals shall not be released until the Public Health regulations are complied with by the importer.

(e) If a shipment contains migratory birds for which a permit is required by the Fish and Wildlife Service of the Department of the Interior, and such permit is not at hand when the birds arrive, an examination thereof shall be made at once by the port director and any duties estimated to be due shall be collected. A stipulation shall be filed with the port director within 24 hours of the entry to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. The shipment may be immediately released if a bond is filed with the port director on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, in an amount equal to the entered value plus estimated duties. If the bond conditions are violated the port director shall issue a claim for liquidated damages under the bond. In lieu of filing a bond the merchandise may be left in Customs custody at the risk and expense of the importer pending issuance of the permit.

(f) If the permit referred to in paragraph (e) of this section is refused by the Fish and Wildlife Service, or if the permit is not produced within the said 30 days, the port director shall promptly recall the property, if delivered under bond, and shall require its immediate exportation at the expense of the importer or consignee.

(g)(1) All import shipments of fish and wildlife subject to the regulations or permit requirements of the U.S. Fish and Wildlife Service, published pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531, or other statutory authority, shall be subject to examination or inspection by that agency’s officer serving the port of entry, for determination as to permissible release or such other disposition as he may direct. Customs officers performing examinations of such fish and wildlife in accordance with regulations of the U.S. Fish and Wildlife Service in 50 CFR parts 10 and parts 13 through 17 shall release shipments only upon submission by the importer of evidence sufficient to establish compliance with those regulations, any applicable permit requirements, and compliance with applicable identification and package or container marking requirements as specified by 50 CFR 17.6(a) and 17.9. In case of doubt as to whether fish, birds, or other wildlife belong to prohibited or endangered species or subspecies or whether an entry permit is required, or in case of suspicion on the part of officers of the Customs that the species sought to be entered are prohibited or endangered species or subspecies imported under other names or descriptions, the importation shall be refused Customs release, and the importer shall be responsible for concluding arrangements acceptable to the regional director or other agent of the U.S. Fish and Wildlife Service for proper handling, custody, and care, at the importer’s expense and risk, of the unreleased fish, birds, or other wildlife. No Customs disposition of the importation shall be concluded pending the determination by the U.S. Fish and Wildlife Service of the true nature of the species or subspecies. In case of refusal or neglect of the importer or consignee, or agent of either, to have the identity so established, final disposition of the importation shall be required as determined by the U.S. Fish and Wildlife Service. In addition to U.S. Fish and Wildlife Service Form 3-177, required to be filed as prescribed in 50 CFR 17.4
upon entry of importations of fish and wildlife, entrants shall present appropriate foreign export permits, other acceptable foreign documentary evidence of lawful taking, transportation, or sale, or appropriate American consular certificates upon importation of fish and wildlife species or subspecies subject to such documentation requirements of 50 CFR 17.4 (c) and (d).

(2) Any antique article imported under §10.53(g) of this chapter shall be entered at one of the following ports:

Boston, Massachusetts
New York, New York
Baltimore, Maryland, Philadelphia, Pennsylvania
Miami, Florida, San Juan, Puerto Rico
New Orleans, Louisiana
Houston, Texas
Los Angeles, California
San Francisco, California
Anchorage, Alaska, Honolulu, Hawaii
O'Hare International Airport, Chicago, Illinois

(h) All invoices of animals and birds shall specify the species covered thereby and the number of each species. In the event of the return to the port director of any importation under the bond given under paragraph (e) of this section, if the number and species of birds does not correspond with the description stated in the invoice and no satisfactory explanation of any discrepancy is furnished, a claim for liquidated damages shall be issued under the bond.

(i) The privilege of entry for immediate transportation granted by section 552, Tariff Act of 1930, shall not be allowed for importations of fish, birds, or other wildlife which are confirmed at the port of first arrival or discharge to be injurious prohibited species, or which require permits issued prior to importation, or which are subject to quarantine regulations or inspection at the ports of first arrival or discharge or other specified place of veterinary inspection. However, entry for immediate transportation properly is allowed for any importation of fish, birds, or other wildlife which at the place of first arrival or discharge is not confirmed to be an injurious prohibited specie and which, following compliance with any applicable quarantine regulations or required veterinary inspection, is being transported by means of an in-bond movement to a port of entry designated in 50 CFR part 17, appendix B, for Customs entry (see paragraphs (a) and (b) of this section). Ports of designated entry, inspection, quarantine, and related enforcement procedures covering certain animals and poultry and certain animal and poultry products imported into the United States are regulated by requirements and standards prescribed in regulations of the Secretary of Agriculture, Department of Agriculture (see 9 CFR parts 92-96, 19 CFR 12.8 and 12.24).

(j) Wild animals and birds shall be imported under humane and healthful conditions, due regard being given to the accommodations and facilities necessary for the species transported.

(k) When any Customs officer has good reason to believe that wild animals or birds have been imported under inhumane or unhealthful conditions in violation of 18 U.S.C. 42, an immediate investigation shall be made to ascertain whether they have in fact been transported under such conditions. The investigation shall determine the provisions made on the vessel or other conveyance for the accommodation of the animals or birds, the suitability of the boxes, cages, stalls, etc., the space, ventilation, and protection from the elements accorded the animals or birds, the facilities for cleaning, feeding, watering, bedding, and such other services as may be required for the species imported. The investigation shall also determine, the physical condition of such animals or birds and the ratio of dead, crippled, diseased, or starving animals or birds. If necessary, officers of the Animal and Plant Health Inspection Service, Veterinary Services, or Fish and Wildlife Service, or other officers or experts, may be called upon to assist customs officers in the matter.

(l) Unless the port director is satisfied that the provisions of 18 U.S.C. 42 have not been violated, he shall report the matter to the United States attorney for appropriate action.

[28 FR 14710, Dec. 31, 1963]

EDITORIAL NOTE: For Federal Register citations affecting §12.26, see the List of CFR Sections Affected in the Finding Aids section of this volume.
§ 12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.

Customs officers shall perform all duties required of them under statutory provisions that prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs of such birds, killed, captured, taken, transported, etc., contrary to law. Such laws and statutory provisions include 18 U.S.C. 43, 44, 3054, 3112.

[T.D. 89–1, 53 FR 51253, Dec. 21, 1988]

§ 12.28 Importation of wild mammals and birds in violation of foreign law.

No imported wild mammal or bird, or part or product thereof, shall be released from Customs custody, except as permitted under §12.26(i) relating to an in-bond movement to a port designated for wildlife entry, if the port director has knowledge of a foreign law or regulation obliging enforcement of section 527(a), Tariff Act of 1930 (19 U.S.C. 1527(a)), unless the importation is an excepted transaction entitled to entry under the provisions of section 527(c) of the Tariff Act or, in connection with the entry, there is presented documentation in the manner specified in 50 CFR 17.4(c) (1) or (2) required for import transactions subject to foreign laws or regulations regarding taking, transportation, or sale of wildlife including wild mammals and birds or parts or products thereof (see §12.26).


§ 12.29 Plumage and eggs of wild birds.

(a) The provisions of Chapter 5, Additional U.S. Note 1, relating to the plumage of any bird, apply to all such plumage, whether imported separately or upon the bird itself, except (1) the feathers of birds specifically excepted by Additional U.S. Note 1 to Chapter 5, Harmonized Tariff Schedule of the United States (HTSUS), (2) plumage imported for scientific or educational purposes, (3) fully-manufactured artificial flies used for fishing, (4) plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purposes, and (5) plumage on live wild birds.

(b) The feathers or skins of certain birds may be imported for use in the manufacture of artificial flies used for fishing or for millinery purposes only under a permit issued by the Fish and Wildlife Service, United States Department of Interior, Washington DC 20240. No feathers or skins of the pro-species provided for by Additional U.S. Note 1, Chapter 5, HTSUS, shall be permitted to be entered, or withdrawn from warehouse, for consumption, unless the requisite permit is presented with the entry or withdrawal.

(c) The importation of the eggs of wild non-game birds is prohibited except as dead natural history specimens for museum or scientific collection purposes. The eggs of migratory birds may be imported for propagating purposes or for scientific and other limited purposes under permits issued by the Fish and Wildlife Service, U.S. Department of the Interior, Washington, DC 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import the eggs of migratory birds without a permit (50 CFR 16.3). The eggs of certain game or migratory birds imported for hatching, such as ducks, geese, swans, turkeys, pigeons, doves, pheasant, grouse, partridges, quail, guinea fowl, and peafowl, are subject to the regulations of the Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Washington, DC 20250. Such regulations require that permits, except for eggs from Canada offered for entry at certain land border ports, must be obtained before the eggs are shipped from the country of origin and that all eggs shall be accompanied by a certificate issued by a national government veterinarian of the country of origin and inspected at a designated port of entry.

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by Chapter 4, Additional U.S. Note 26, the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the
United States Customs Service, Treasury

§ 12.30 Whaling.

The importation and exportation of whales or whale products taken or processed in violation of the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946 (Publication No. 3383, Department of State, Whaling Convention), or of the Whaling Convention Act of 1949 (16 U.S.C. 916 through 916(h)), or of any regulation issued under the Act (50 CFR part 351) is unlawful. Customs officers and employees shall perform all functions required of them by the above-mentioned convention, law and regulation.

[T.D. 89-1, 53 FR 51253, Dec. 21, 1988]

§ 12.31 Plant pests.

The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the Secretary of Agriculture, is prohibited. All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs of that Department for inspection and determination of their admissibility into the United States.


§ 12.32 Honeybees and honeybee semen.

(a) Honeybees from any country may be imported into the U.S. by the Department of Agriculture for experimental or scientific purposes. All other importations of honeybees are prohibited except those from a country which the Secretary of Agriculture has determined to be free of diseases dangerous to honeybees.

(b) Honeybee semen may be imported into the U.S. only from countries determined by the Secretary of Agriculture to be free of undesirable honeybees, and which take adequate precautions to prevent the importation of undesirable honeybees and their semen.

(c) The importation of honeybees and honeybee semen is governed by joint regulations of the Secretary of Agriculture and the Secretary of the Treasury published in Treasury Decisions and the Federal Register from time to time.


§ 12.33 Importation of tea; entry; examination for customs purposes.

(a) The importation of any merchandise as tea which is inferior in purity, quality, and fitness for consumption to the standards prescribed by the Act of March 2, 1897, as amended (21 U.S.C. 41 through 50), is prohibited. Customs officers and employees shall perform all duties required of them by the said act and regulations.

(b) The importation of tea is subject also to the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder. See §§12.1 to 12.5.

(c) [Reserved]

(d) The port director may order such an examination of packages containing tea as will satisfy him that no dutiable goods are packed therein. For this purpose the customary designation shall be made of packages for examination in public stores.

(e) If the invoice has not been received, the importer may use an additional copy of the chop list and release permit required by the regulations of
§ 12.34

the Department of Health and Human Services as a pro forma invoice, marking “Pro forma invoice” across the face thereof.


WHITE PHOSPHORUS MATCHES

§ 12.34 Importation prohibited; certificate of inspection; importer’s declaration.

(a) The importation into the United States of white phosphorus matches is prohibited.

(b) Invoices covering matches imported into the United States shall be accompanied by a certificate of official inspection of the Government of the country of manufacture in the following form:

CERTIFICATE OF OFFICIAL INSPECTION OF MATCHES

I, __________ (Name), do hereby certify that I am the __________ (Official title), that according to the chemical analysis made by me the matches described below do not contain white or yellow phosphorus and that therefore they are not white phosphorus matches as defined in the Act of Congress of the United States of America approved April 9, 1912;

<table>
<thead>
<tr>
<th>Number of case mark</th>
<th>Description of marks</th>
<th>Name and address of manufacturer</th>
<th>Name of consignee and address, vessel, and date of shipment</th>
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(Signature)

(Official title)

(c) In the absence of such certificate, the matches shall be detained until a certificate is produced or the importer submits satisfactory evidence to show that the matches were not in fact manufactured with the use of poisonous white or yellow phosphorus.

(d) The production of the above certificate shall not be required on the entry of matches manufactured in countries which prohibit the use of white or yellow phosphorus in the manufacture of matches.

(e) At the time of filing an entry for imported matches, the importer shall make a declaration that to the best of his knowledge and belief no matches included in the invoice and entry are white phosphorus matches.


§ 12.35 [Reserved]

NARCOTIC DRUGS

§ 12.36 Regulations of Bureau of Narcotics.

The importation and exportation of narcotic drugs are governed by regulations of the Drug Enforcement Administration Bureau of Narcotics. Customs officers and employees shall perform all duties imposed upon them by such regulations and the laws under which they are issued. Such regulations are in addition to, and not in lieu of, the Customs, internal-revenue, and other pertinent laws and regulations.


LIQUORS

§ 12.37 Restricted importations.

(a) The basic permit requirements prescribed by the act of August 29, 1935 (27 U.S.C. 203), shall not be deemed applicable when the port director is satisfied that the liquor is for personal use or for experimental purposes in the making of analyses, tests, or comparisons.

(b) The production of a basic permit shall not be required when spirits are withdrawn from warehouse under any form of withdrawal entry.

(c) Blending or rectifying of wines or distilled spirits in class 6 manufacturing warehouses, or the bottling of imported distilled spirits in class 8 manipulation warehouses, shall not be permitted unless the proprietor has obtained an appropriate permit from the
§ 12.38 Labeling requirements; shipments.

All shipments of liquor not labeled as required by 18 U.S.C. 1263 214 and any vessel or vehicle, other than a common carrier, used in the transportation of such liquor shall be seized and disposed of in accordance with 18 U.S.C. 3615 (see 171.22(b) of this chapter).

§ 12.39 Imported articles involving unfair methods of competition or practices.

(a) Determinations of the International Trade Commission. Under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), unfair methods of competition and unfair practices in the importation or sale of articles, the effect or tendency of which is to destroy, substantially injure, or prevent the establishment of an efficiently and economically operated United States industry, or to restrain or monopolize trade and commerce in the United States, are unlawful. After an investigation of an alleged violation of section 337, the U.S. International Trade Commission ("the Commission") may determine that section 337 has been violated. The Commission also may determine during the course of its investigation that there is reason to believe that a violation of section 337 exists. The Commission's determination in either case is effective on the date of its publication in the Federal Register and is referred to the President, who may disapprove the determination for policy reasons on or before the close of a 60-day period beginning on the day after the day he receives a copy of the determination. A Commission determination disapproved by the President shall have no force or effect as of the date the Commission is notified of his disapproval. If the Commission's determination is not disapproved by the President during the 60-day period, or if he notifies the Commission before the close of the period that he approves the determination, the determination becomes final on the day after the close of the period or the day of the notification, whichever is earlier.

(b) Exclusion from entry; entry under bond; notice of exclusion order. (1) If the Commission finds a violation of section 337, or reason to believe that a violation exists, it may direct the Secretary of the Treasury to exclude from entry into the United States the articles concerned which are imported by the person violating or suspected of violating section 337. The Commission's exclusion order remains in effect until the Commission determines, and notifies the Secretary of the Treasury, that the conditions which led to the exclusion no longer exist, or until the determination of the Commission on which the order is based is disapproved by the President.

(2) During the period the Commission's exclusion order remains in effect, excluded articles may be entered under a single entry bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter in an amount determined by the International Trade Commission. However, on or after the date that the Commission's determination of a violation of section 337 becomes final, as set forth in paragraph (a) of this section, articles covered by the determination shall be refused entry.

(3) Port directors shall notify each importer or consignee of articles released under bond pursuant to paragraph (b)(2) of this section when the Commission's determination of a violation of section 337 becomes final and that entry of the articles is refused. The importer or consignee shall export or destroy the released articles under customs supervision within 30 days after the date of notification. The port director who released the articles shall assess liquidated damages in the full amount of the bond if the importer or consignee fails to export or destroy the released articles under customs supervision within the 30-day period.
(4) In addition to the notice given to importers or consignees of articles released under bond, port directors shall provide written notice to all owners, importers or consignees of articles which are denied entry into the United States pursuant to an exclusion order that any future attempt to import such articles may result in the articles being seized and forfeited. Copies of all such notices are to be forwarded to the Commercial Enforcement, Trade Compliance Division, at Customs Headquarters, and to the Office of the General Counsel, USITC, 500 E Street, SW., Washington, DC 20436 by port directors.

(c) Seizure and Forfeiture Orders. (1) In addition to issuing an exclusion order under paragraph (b)(1) of this section, the Commission may issue an order providing that any article determined to be in violation of §337 be seized and forfeited to the United States. Such order may be issued if:
   (i) The owner, importer, or consignee of the article previously attempted to import the article or like articles into the United States;
   (ii) The article or like articles were previously denied entry into the United States by reason of an exclusion order issued under paragraph (b)(1) of this section; and
   (iii) Upon such previous denial of entry, the port director of the port in which the entry was attempted had notified the owner, importer, or consignee of the article in writing of both the exclusion order and that seizure and forfeiture would result from any further attempt to import the article or like articles into the United States.

(2) Upon receipt of any seizure order issued by the Commission in accordance with this paragraph, Customs shall immediately notify all ports of entry of the property subject to the seizure order and identify the persons notified under paragraph (b)(4) of this section.

(3) The port director in the port in which the article was seized shall issue a notice of seizure to parties known to have an interest in the seized property. All interested parties to the property shall have an opportunity to petition for relief under the provisions of 19 CFR part 171. All petitions must be filed within 30 days of the date of issuance of the notice of seizure, and failure of a claimant to petition will result in the commencement of administrative forfeiture proceedings. All petitions will be decided by the appropriate Customs officer, based upon the value of the articles under seizure. If seized articles are found to be not includable in an order for seizure and forfeiture, then the seizure and the forfeiture shall be remitted in accordance with standard Customs procedures.

(5) Forfeited merchandise shall be disposed of in accordance with the Customs laws.

(d) Certain importations by or for the United States. Any exclusion from entry under section 337 based on claims of United States letters patent shall not apply to articles imported by and for the use of the United States, or imported for, and to be used for, the United States with the authorization or consent of the Government.

(e) Importations of semiconductor chip products. (1) In accordance with the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901 et seq.), if the owner of a mask work which is registered with the Copyright Office seeks to have Customs deny entry to any imported semiconductor chip products which infringe his rights in such mask work, the owner must obtain a court order enjoining, or an order of the U.S. International Trade Commission (USITC), under section 337, Tariff Act of 1930, as amended (19 U.S.C. 1337), excluding, importation of such products. Exclusion orders issued by the USITC are enforceable by Customs under paragraph (b) of this section. Court orders or exclusion orders issued by the USITC shall be forwarded, for enforcement purposes, to the Director, International Trade Compliance Division, U.S. Customs Service, Washington, DC 20229.

(2) The port director shall enforce any court order or USITC exclusion order based upon a mask work registration in accordance with the terms of such order. Court orders may require either denial of entry or the seizure of violative semiconductor chip products. Forfeiture proceedings in accordance with part 162 of this chapter shall be instituted against any such products so seized.
(3) This regulation will be effective against all importers regardless of whether they have knowledge that their importations are in violation of the Semiconductor Chip Protection Act of 1984 (17 U.S.C. 901 through 904).

§ 12.39a Registered patent owners; import survey.

(a) When the owner of a patent registered in the United States believes that merchandise is being imported into the United States which infringes such patent, an application for a survey to assist the patent owner in taking appropriate action may be made. The purpose of the survey is to provide the patent owner with the names and addresses of importers of merchandise which appears to infringe the registered patent.

(b) The application may be made by letter addressed to the Commissioner of Customs, U.S. Customs Service, Washington, DC 20229. It shall state the name and address of the patent owner; and if available, a description of the merchandise believed to infringe the registered patent and the country of manufacture of the merchandise. A certified copy of the patent registration issued by the Patent and Trademark Office showing ownership to be in the name as claimed, 3 additional copies of the patent registration for Customs files, and a check or money order to cover the fee prescribed by § 24.12(a)(3) of this chapter for the survey selected shall be submitted with the application.

(c) Surveys will be made for periods of 2, 4 or 6 months at the option of the applicant.

§ 12.40 Seizure; disposition of seized articles; reports to United States attorney.

(a) Any book, pamphlet, paper, writing, advertisement, circular, print, picture, or drawing containing any matter advocating or urging treason or insurgent against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, seized under section 305, Tariff Act of 1930, shall be transmitted to the United States attorney for his consideration and action.

(b) Upon the seizure of articles or matter prohibited entry by section 305, Tariff Act of 1930 (with the exception of the matter described in paragraph (a) of this section), a notice of the seizure of such articles or matter shall be sent to the consignee or addressee.

(c) When articles of the class covered by paragraph (b) of this section are of small value and no criminal intent is apparent, a blank assent to forfeiture, Customs Form 4607, shall be sent with the notice of seizure. Upon receipt of the assent to forfeiture duly executed, the articles shall be destroyed if not needed for official use and the case closed.

(d) In the case of a repeated offender or when the facts indicate that the importation was made deliberately with intent to evade the law, the facts and evidence shall be submitted to the United States attorney for consideration of prosecution of the offender as well as an action in rem under section 305 for condemnation of the articles.

(e) All cases in which articles have been seized pursuant to 19 U.S.C. 1305(a) should be referred to the U.S. Attorney, for possible institution of condemnation proceedings, within 4 days, but in no event more than 14 days, after the date of Customs initial examination. The referral to the U.S. Attorney should be initiated simultaneously with the mailing to the importer of the seizure notice and the assent to forfeiture form. If the importer declines to execute an assent to forfeiture of the articles other than those mentioned in paragraph (a) of this section and fails to submit, within 30 days after being notified of his privilege to do so, a petition under section 618, Tariff Act of 1930 (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized articles, then
§ 12.41 Prohibited films.

(a) Importers of films shall certify on Customs Form 3291 that the imported films contain no obscene or immoral matter, nor any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, nor any threat to take the life or inflict bodily harm upon any person in the United States. When imported films are claimed to be free of duty as American goods returned, this certification may be made on Customs Form 3311 in the space designated “Remarks” in lieu of on Form 3291.

(b) Films exposed abroad by a foreign concern or individual shall be previewed by a qualified employee of the Customs Service before release. In case such films are imported as undeveloped negatives exposed abroad, the approximate number of feet shall be ascertained by weighing before they are allowed to be developed and printed and such film shall be previewed by a qualified employee of the Customs Service after having been developed and printed.

(c) Any objectionable film shall be detained pending instructions from Headquarters, U.S. Customs Service or a decision of the court as to its final disposition.

§ 12.42 Findings of Commissioner of Customs.

(a) If any port director or other principal Customs officer has reason to believe that any class of merchandise which is being, or is likely to be, imported into the United States is being produced, whether by mining, manufacture, or other means, in any foreign locality with the use of convict labor, forced labor, or indentured labor under penal sanctions so as to come within the purview of the first sentence of section 307, Tariff Act of 1930, he shall communicate his belief to the Commissioner of Customs. Every such communication shall contain or be accompanied by a statement of substantially the same information as is required in paragraph (b) of this section, if in the possession of the port director or other officer or readily available to him.

(b) Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any port director or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the
reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad. If the foreign merchandise is believed to be mined, produced, or manufactured with the use of forced labor or indentured labor under penal sanctions, such communication shall also contain (4) detailed information as to the production and consumption of the particular class of merchandise in the United States and the names and addresses of domestic producers likely to be interested in the matter.

(c) If any information filed with a port director pursuant to paragraph (b) of this section does not conform with the requirements of that paragraph, the communication shall be returned promptly to the person who submitted it with detailed written advice as to the respects in which it does not conform. If such information is found to comply with the requirements, it shall be transmitted by the port director within 10 days to the Commissioner of Customs, together with all pertinent additional information available to the port director.

(d) Upon receipt by the Commissioner of Customs of any communication submitted pursuant to paragraph (a) or (b) of this section and found to comply with the requirements of the pertinent paragraph, the Commissioner will cause such investigation to be made as appears to be warranted by the circumstances of the case and the Commissioner or his designated representative will consider any representations offered by foreign interests, importers, domestic producers, or other interested persons.

(e) If the Commissioner of Customs finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all port directors accordingly and the port directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation.

(f) If it is determined on the basis of the foregoing that the merchandise is subject to the provisions of the said section 307, the Commissioner of Customs, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the Federal Register.

(g) Any merchandise of a class specified in a finding made under paragraph (f) of this section, which is imported directly or indirectly from the locality specified in the findings and has not been released from Customs custody before the date of publication of such finding in the Federal Register shall be considered and treated as an importation prohibited by section 307, Tariff Act of 1930, unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of a class of labor specified in the finding.

(h) The following findings made under the authority of section 307, Tariff Act of 1930 are currently in effect with respect to the merchandise listed below:

<table>
<thead>
<tr>
<th>Merchandise</th>
<th>Country</th>
<th>T.D.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Furniture, clothes hampers, and palm leaf bags.</td>
<td>Ciudad Victoria, Tamaulipas, Mexico.</td>
<td>53408 54725</td>
</tr>
</tbody>
</table>


§ 12.43 Proof of admissibility.

(a) If an importer of any article detained under § 12.42(e) or (g) desires to contend that the article was not mined, produced, or manufactured in any part with the use of a class of labor specified in section 307, Tariff Act of 1930, he shall submit to the Commissioner of Customs within 3 months after the date the article was imported a certificate of origin in the form set forth below, signed by the foreign seller or owner of the article. If the article was mined, produced, or manufactured wholly or in part in a country other than that from which it was exported to the United States, an additional certificate in such form and signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment.
§ 12.44 Disposition.

Merchandise detained pursuant to § 12.42 may be exported at any time before it is deemed to have been abandoned as hereinafter provided for. If it has not been exported within 3 months after the date of importation, the port director shall ascertain whether the proof specified in § 12.43 has been submitted within the time prescribed in that section. If the proof has not been so submitted, or if the Commissioner of Customs advises the port director that the proof furnished does not establish the admissibility of the merchandise, the port director shall promptly advise the importer in writing that the merchandise is excluded from entry. Upon the expiration of 60 days after the delivery or mailing of such advice by the port director, the merchandise shall be deemed to have been abandoned and shall be destroyed, unless it has been exported or a protest has been filed as provided for in section 514, Tariff Act of 1930.

§ 12.45 Transportation and marketing of prison-labor products.

If any apparent violation of section 1761 or 1762, title 18, United States Code, with respect to any imported article comes to the attention of a port director, he shall detain the article and report the facts to the appropriate United States attorney. If the United States attorney advises the port director that action should be taken against the article, it shall be seized and held pending the receipt of further instructions from the United States attorney or the court.


COUNTERFEIT COINS, OBLIGATIONS, AND OTHER SECURITIES; ILLUSTRATIONS OR REPRODUCTIONS OF COINS OR STAMPS

§ 12.48 Importation prohibited; exceptions to prohibition of importation; procedure.

(a) In accordance with Chapter 25, Title 18, United States Code, any token, disk, or device in the likeness or similitude of any coin of the United States or of a foreign country; counterfeit of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States or of any foreign government; or plates, dies, or other apparatus which may be used in making any of the foregoing, when brought into the United States, shall be seized.
§ 12.48

and delivered to the nearest representative of the United States Secret Service, together with a report of the facts, for appropriate disposition.

(b) In accordance with section 504 of title 18, United States Code, the printing, publishing, or importation or the making or importation of the necessary plates for such printing or publishing for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums) of black and white illustrations of canceled and uncanceled United States postage stamps shall be permitted.

(c) The importation (but not for advertising purposes except philatelic advertising) of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation shall be permitted.

(d) Printed matter of the character described in section 504, title 18, United States Code, containing reproductions of postage or revenue stamps, executed in accordance with any exception stated in section 504, or colored reproductions of canceled foreign postage stamps may be admitted to entry. Printed matter containing illustrations or reproductions not executed in accordance with such exceptions shall be treated as prohibited importations. If no application for exportation or assessment to forfeiture and destruction is received by the port director within 30 days from the date of notification to the importer that the articles are prohibited, the articles shall be reported to the United States attorney for forfeiture.


Notwithstanding any other provision of this chapter, the following are permitted:

(1) The printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of illustrations of:

(A) Postage stamps of the United States,

(B) Revenue stamps of the United States,

(C) Any other obligation or other security of the United States,

(D) Postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation, for philatelic, numismatic, educational, historical, or newsworthy purposes in articles, books, journals, newspapers, or albums (but not for advertising purposes, except illustrations of stamps and paper money in philatelic or numismatic advertising of legitimate numismatists and dealers in stamps or publishers of or dealers in philatelic or numismatic articles, books, journals, newspapers, or albums). Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

(i) All illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government may be in color;

(ii) All illustrations (including illustrations of uncanceled postage stamps in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by subparagraph (A), (B), (C), or (D) of this paragraph, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and

(iii) The negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section.

(2) The making or importation, but not for advertising purposes except philatelic advertising, of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of paragraph (3), without the permission of the Secretary of the Treasury.

For the purposes of this section the term "postage stamp" includes "postage meter stamps." (18 U.S.C. 504).
§ 12.60 Importation prohibited.

The transportation, importation, sale, or possession of the skins of fur seals or sea otters is prohibited if such skins were taken contrary to the provisions of section 2 of the act of February 26, 1944 (58 Stat. 100–104) or, the case of such skins taken under the authority of the act or any fur-seal agreement, if the skins are not officially marked and certified as required by section 2 of the act. Section 16 makes the act inapplicable to skins taken for scientific purposes under a special permit.


§ 12.61 Fur-seal or sea-otter skins permitted entry.

(a) Fur-seal or sea-otter skins taken by Indians, Aleuts, or other aborigines under the authority of section 3 of the act, fur-seal skins taken under the authority of the Canadian Government, and fur-seal skins taken on the Pribilof Islands and other specified areas under the authority of section 4 of the act shall be admitted to entry if officially marked and certified as having been lawfully taken and if accompanied by a declaration of the shipper identifying the skins by marks and numbers as those covered by the official certificate.

(b) Fur-seal or sea-otter skins taken in waters or on land not specified in the act or in the fur-seal agreement with Canada or other fur-seal agreement shall be admitted to entry upon the production of evidence satisfactory to the port director that they have been so taken.


§ 12.62 Enforcement; duties of Customs officers.

(a) In accordance with the authority contained in sections 10 and 12 of the act, Customs officers shall arrest or cause to be arrested persons violating the provisions of the act or of any regulation made pursuant thereto; shall search vessels when there is reasonable cause to believe that such vessels are subject to seizure under the act, shall seize any vessel used or employed or which it appears has been or is about to be used or employed in violation of the act or any regulation made pursuant thereto; and shall seize fur seals and sea otters, or the skins thereof, killed, captured, transported, imported, offered for sale, or possessed by any person contrary to the provisions of the act or of any regulation made pursuant thereto.

(b) All articles, including vessels and equipment, seized by Customs officers for violation of the act shall be turned over to the nearest officer or agent of the Fish and Wildlife Service, Department of the Interior, for appropriate disposition under the act, receipts to be taken in duplicate therefor. One copy of each such receipt shall be transmitted to Headquarters, U.S. Customs Service with a detailed report of the facts in the particular case involved.


§ 12.63 Seal-skin or sea-otter-skin waste.

Seal-skin or sea-otter-skin waste composed of small pieces not large enough to be sewed together and utilized as dressed fur shall not be subject to the requirements of the regulations in this part.

§ 12.73 Motor vehicle and engine compliance with Federal antipollution emission requirements.

(a) Applicability of EPA requirements. This section is ancillary to the regulations of the U.S. Environmental Protection Agency (EPA) issued under the Clean Air Act, as amended (42 U.S.C. 7401 et seq.), and found in 40 CFR parts 85 and 86. Those regulations should be consulted for more detailed information concerning EPA emission requirements. The requirements apply to imported motor vehicles, but do not apply to separately imported non-chassis mounted engines to be used in light-duty trucks or other light-duty vehicles. Other separately imported engines.
for heavy-duty motor vehicles are covered, and all references in this section to motor vehicles should be deemed to include motor vehicles as well as these heavy-duty engines. Nothing in this section should be construed as limiting or changing in any way the applicability of the EPA regulations.

(b) Importation of complying vehicles—
(1) Labeled vehicles. Vehicles which in their condition as imported are covered by an EPA certificate of conformity and which bear the manufacturer’s label showing such conformity and other EPA-required information shall be deemed in compliance with applicable emission requirements for the purpose of Customs admissibility and entry liquidation determinations. This paragraph does not apply to importations of ICI’s covered by paragraph (d) of this section.

(2) Pending certification. Vehicles otherwise covered by paragraph (b)(1) of this section which were manufactured for compliance with applicable emission requirements, but for which an application for a certificate of conformity is pending with the EPA may be conditionally released from Customs custody pending production of the certificate of conformity within 120 days of release.

(c) Importation of vehicles previously in compliance—(1) Vehicles of returning residents. Vehicles of residents returning from Canada, Mexico or other countries as EPA may designate are not covered by this section.

(2) Vehicles of commuting nonresidents and tourists. A port director through the issuance of an appropriate means of identification to be affixed to a vehicle may waive all of the requirements of this section for a nonresident regularly crossing the Canadian or Mexican border, or waive the requirements for Mexican or Canadian-registered vehicles of tourists or other travelers.

(3) Participants in EPA-approved catalytic converter or oxygen sensor control programs. Further evidence of emissions compliance will not be required for catalytic converter or oxygen sensor-equipped vehicles imported for participating in EPA-approved catalytic converter or oxygen sensor control programs and subject to the requirements of those programs.

(4) Previously labeled, modified or imported vehicles. Any other vehicle of United States or foreign origin manufactured with a catalytic converter or oxygen sensor, or any previously imported vehicle subsequently modified with a catalytic converter or oxygen sensor, will not be deemed in compliance with applicable emission requirements if used outside of the United States, Canada, Mexico, or other countries as EPA may designate, until the catalytic converter and/or oxygen sensor is replaced. Conditional release from Customs custody for the purpose of the modification is subject to a 120-day period for completion. Subject to special documentation at the time of export from the United States and approval and other requirements of EPA, replacement of a catalytic converter or oxygen sensor may be avoided if the equipment is disconnected before export from the United States and reconnected after subsequent importation.

(d) Importation of vehicles by ICI’s. Except for motor vehicles imported in the applicable circumstances covered by paragraphs (c), (e), (f), (g) or (h) of this section, an individual or business other than an independent commercial importer (ICI) holding a currently valid EPA certificate of conformity may not enter a motor vehicle to which EPA emission requirements apply. An ICI, subject to the more specific definition in EPA regulations, is an importer which does not have a contract with a foreign or domestic motor vehicle manufacturer for distributing products into the United States market. However, a motor vehicle may not be conditionally admitted unless it falls within one of the categories provided for in 40 CFR 85.1505 or 85.1509. Before the vehicle is deemed to be in compliance with applicable emission requirements and, therefore, finally admitted into the United States, the ICI must keep the vehicle in storage for a 15-working day period. This period follows notice to EPA of completion of the compliance work to give EPA the opportunity to conduct confirmatory testing and inspect the vehicle and records. The 15-working day period is part of the 120-day period in which an ICI must bring the vehicle into emissions compliance. Individuals and businesses not entitled
to enter nonconforming motor vehicles may arrange for their importation through an ICI certificate holder. In these circumstances, the ICI will not act as an agent or broker for Customs transaction purposes unless otherwise licensed or authorized to do so.

(e) Exemptions and exclusions from emission requirements based on age of vehicle. The following motor vehicles, except as shown, may be imported by any person and do not have to be shown to be in compliance with emission requirements or modified before entitled to admissibility:

2. Diesel-fueled light-duty motor vehicles manufactured before January 1, 1975;
3. Diesel-fueled light-duty trucks manufactured before January 1, 1976;
4. Motorcycles manufactured before January 1, 1978;
5. Gasoline-fueled and diesel-fueled heavy-duty engines manufactured before January 1, 1970; and
6. Motor vehicles not otherwise exempt from EPA emission requirements and more than 20 years old. Age is determined by subtracting the year of production (as opposed to model year) from the year of importation. The exemption under this subparagraph is available only if the vehicle is imported by an ICI.

(f) Exemption for exports. A motor vehicle intended solely for export to a country not having the same emission standards applicable in the United States, and both the vehicle and its container bear a label or tag indicating that it is intended solely for export, is exempt from applicable United States emission requirements. 40 CFR 85.1709.

(g) Exemptions for diplomats, foreign military personnel and nonresidents. Subject to the condition that they are not resold in the United States, the following motor vehicles are exempt from applicable emission requirements:

1. A motor vehicle imported solely for the personal use of a nonresident importer or consignee and the use will be for a period not to exceed one year; and
2. A motor vehicle of a member of the armed forces of a foreign country on assignment in the United States, or of a member of the personnel of a foreign government on assignment in the United States or other individual who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State in accordance with general principles of international law. For special documentation requirements see paragraph (i)(4) of this section.

(h) Exemptions and exclusions based on prior EPA authorization. The following motor vehicles are exempt or excluded from applicable emission requirements if prior approval has been obtained in writing from EPA:

1. Importations for repairs. Any motor vehicle which is imported solely for repairs or alterations and which is not sold, leased, registered or licensed for use or operated on public roads or highways in the United States. 40 CFR 85.1511(b)(1);
2. Importations for testing. Any motor vehicle imported solely for testing. Test vehicles may be operated on and registered for use on public roads or highways provided that the operation is an integral part of the test. 40 CFR 85.1511(b)(2). This exemption is limited to a period not exceeding one year from the date of importation unless a request is made under 40 CFR 85.1705(f) for a one-year extension;
3. Prototype vehicles. Any motor vehicle imported for use as a prototype in applying for EPA certification. 40 CFR 85.1511(b)(3) and 85.1706. In the case of an ICI, unless the vehicle is brought into conformity within 180 days from the date of entry it shall be exported or otherwise disposed of subject to paragraph (1) of this section;
4. Display vehicles. Any motor vehicle which is imported solely for display and which will not be sold, leased, registered or licensed for use on or operated on the public roads or highways in the United States. 40 CFR 85.1511(b)(4);
5. Racing cars. Any motor vehicle which qualifies as a racing vehicle meeting one or more of the criteria found at 40 CFR 85.1703(a), and which will not be registered or licensed for use on or operated on public roads or highways in the United States. See also 40 CFR 85.1511(c)(1);
(6) National security importations. Any motor vehicle imported for purposes of national security by a manufacturer. 40 CFR 85.1511(c)(2), 85.1702(a)(2) and 85.1708; and

(7) Hardship exemption. Any motor vehicle imported by anyone qualifying for a hardship exemption. 40 CFR 85.1511(c)(3).

(i) Documentation requirements—(1) Exception for manufacturers. The special documentation requirements of this paragraph do not apply to the entry of any motor vehicles shown to be in compliance with applicable emission requirements under paragraph (b)(1) of this section relating to labeling.

(2) Declarations of other importers. Release from Customs custody shall be refused with respect to all other entries unless there is filed with the entry in duplicate a declaration in which the importer or consignee declares or affirms its status as an original equipment manufacturer, an ICI holding an applicable certificate of conformity, or other status, and further declares or affirms the status or condition of the imported vehicles and the circumstances concerning importation including a citation to the specific paragraph or subparagraph in this section upon which application for conditional or final release from Customs custody is applied for.

(3) Other documentation and information. An importer's declaration shall include or be submitted with the following further information and documentation:

(A) The importer's name and address and telephone number;

(B) Identification of the vehicle or engine number, the vehicle owner's taxpayer identification number, and his or her current address and telephone number in the United States if different than as provided for in paragraph (3)(A) of this paragraph;

(C) Identification, where applicable, of the place where the vehicle will be stored until EPA approval of the importer's application to EPA for final admission as required for vehicles imported under 40 CFR 85.1505, 85.1509, or 85.1512 having reference to certain importations under paragraphs (c)(4) or (d)(1) of this section;

(D) Authorization for EPA enforcement officers to conduct inspections or testing otherwise permitted by the Clean Air Act and regulations promulgated thereunder;

(E) Identification, where applicable, of the certificate of conformity by means of which the vehicle is being imported;

(F) The date of manufacture of the vehicle;

(G) The date of entry;

(H) Identification of the vessel or carrier on which the merchandise was shipped;

(I) The entry number where applicable;

(J) Where prior EPA authorization is required for an exemption or exclusion, a copy of that authorization; and

(K) Such other further information as may be required by the EPA or the Customs Service.

(4) Documentation from diplomats and foreign military personnel. For entries for which an exemption is claimed under paragraph (g)(2) of this section, there must also be attached to the declaration required under paragraph (i)(2) of this section a copy of the motor vehicle importer's official orders, if any, or if a qualifying member of the personnel of a foreign government on assignment in the United States, the name of the embassy to which the importer is accredited.

(j) Release under bond. If a declaration filed in accordance with paragraph (i)(2) of this section states that the entry is being filed under circumstances described in either paragraph (c)(4), (h)(1), (h)(2), (h)(3) or (h)(4) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 301, containing the bond condition set forth in §113.62 of this chapter for the production of an EPA statement that the vehicle or engine is in conformity with Federal emission requirements. Within the period in paragraph (h)(2), (h)(3) or (c)(4) of this section, or in the case of paragraph (h)(1) or (h)(4) of this section, the period specified by EPA in its authorization for an exemption, or such additional period as the port director may allow for good cause shown, the importer or consignee shall deliver to the port director the prescribed
§ 12.74 Nonroad engine compliance with Federal antipollution emission requirements.

(a) Applicability of EPA regulations. The requirements governing the importation of nonroad engines subject to conformance with applicable emissions standards of the U.S. Environmental Protection Agency (EPA) are contained in EPA regulations, issued under the Clean Air Act, as amended (42 U.S.C. 7401 et seq.). These EPA regulations should be consulted for detailed information as to the admission requirements for subject nonroad engines, as follows:

(1) For nonroad compression-ignition engines at or above 37 kilowatts, see 40 CFR part 89, subpart G;

(2) For nonroad spark-ignition engines at or below 19 kilowatts, see 40 CFR part 90, subpart G; and

(3) For marine spark-ignition engines, see 40 CFR part 91, subpart H.

(b) Admission of nonconforming nonroad engines. (1) EPA declaration required. EPA Form 3520-21, “Importation of Nonroad Engines and Nonroad Engines Incorporated Into Nonroad Equipment or Vehicles, Subject to Federal Air Pollution Regulations”, must be completed by the importer and retained on file by him before making a customs entry for such nonroad engines/equipment/vehicles.

(2) Retention and submission of records to Customs. Documents supporting the information required in the EPA declaration must be retained by the importer for a period of at least 5 years in accordance with §162.1c of this chapter and shall be provided to Customs upon request.

(c) Release under bond. (1) Conditional admission. If the EPA declaration states that the entry for a nonconforming nonroad engine is being filed under one of the exemptions described in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, under which the engine must be conditionally admitted under bond, the entry for such engine shall be accepted only if a bond is given on Customs Form 301 containing the conditions set forth in §113.62 of this chapter for the presentation of an EPA statement that the engine has been brought into conformity with Federal emissions requirements.

(m) Prohibited importations. The importation of motor vehicles otherwise in accordance with this section and the regulations of EPA in 40 CFR parts 80, 85, 86 and 600 is prohibited.

(2) Final admission. Should final admission be sought and granted pursuant to EPA regulations for an engine conditionally admitted initially under one of the exemptions described in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the importer or consignee shall deliver to the port director the prescribed statement. The statement shall be delivered within the period authorized by EPA for the specific exemption, or such additional period as the port director of Customs may allow for good cause shown. Otherwise, the importer or consignee shall deliver or cause to be delivered to the port director the subject engine, either for export or other disposition under applicable Customs laws and regulations (see paragraph (e) of this section). If such engine is not redelivered within 5 days following the allotted period, liquidated damages shall be assessed in the full amount of the bond, if a single entry bond, or if a continuous bond, the amount that would have been taken under a single entry bond (see 40 CFR 89.612-96(d), 90.613(c) & (d), 91.705(c) & (d)).

(3) Exemptions. The specific exemptions under which a nonconforming nonroad engine may be conditionally admitted, and for which a Customs bond is required, are as follows:

(i) Repairs or alterations (see 40 CFR 89.611-96(b)(1), 90.612(b)(1), 91.704(b)(1));
(ii) Testing (see 40 CFR 89.611-96(b)(2), 90.612(b)(2), 91.704(b)(2));
(iii) Precertification (see 40 CFR 89.611-96(b)(3), 89.906); and
(iv) Display (see 40 CFR 89.611-96(b)(4), 90.612(b)(3), 91.704(b)(3)).

(d) Notice of inadmissibility or detention. If an engine is found to be inadmissible either before or after release from Customs custody, the importer or consignee shall be notified in writing of the inadmissibility determination and/or redelivery requirement. However, an engine which cannot be released merely due to a failure to furnish with the entry any documentary information as required by EPA shall be held in detention by the port director for a period not to exceed 30 days after filing of the entry at the risk and expense of the importer pending submission of the missing information. An additional 30-day extension may be granted by the port director upon application for good cause shown. If at the expiration of a period not over 60 days the required documentation has not been filed, a notice of inadmissibility will be issued.

(e) Disposal of engines not entitled to admission; prohibited importations. A nonroad engine denied admission under EPA regulations shall be disposed of consistent with such EPA regulations and in accordance with applicable Customs laws and regulations. The importation of nonroad engines otherwise than as prescribed under EPA regulations is prohibited.


MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT MANUFACTURED ON OR AFTER JANUARY 1, 1968

§ 12.80 Federal motor vehicle safety standards.

(a) Standards prescribed by the Department of Transportation. Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate Commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the Act"), and set forth in 49 CFR part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) Requirements for entry and release.

(1) Unless the requirement for filing is waived by the port director as provided for in paragraph (f) of this section, each vehicle or equipment item offered
for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item, or to the outside of the container in which the equipment item is delivered, in accordance with regulations issued by the Secretary of Transportation (49 CFR parts 555, 567, 568 and 571) under section 114 of the Act (15 U.S.C. 1403).

(iii) The vehicle or equipment item was not manufactured in conformity to all applicable safety standards, but it has been or will be brought into conformity. Within 120 days after entry, or within a period not to exceed 180 days after entry, if additional time is granted by the Administrator, National Highway Traffic Safety Administration ("Administrator, NHTSA"), the importer or consignee will submit a true and complete statement to the Administrator, NHTSA, identifying the manufacturer, contractor, or other person who has brought the vehicle or equipment item into conformity, describing the exact nature and extent of the work performed, and certifying that the vehicle or equipment item has been brought into conformity, and that the vehicle or equipment item will not be sold or offered for sale until the Administrator, NHTSA, issues an approval letter to the port director stating that the vehicle or equipment item described in the declaration has been brought into conformity with all applicable safety standards.

(iv) The vehicle or equipment item is intended solely for export, and the vehicle or equipment item, and the outside of the container of the equipment item, if any, bears a label or tag to that effect.

(v) The importer or consignee is a nonresident of the United States, is importing the vehicle or equipment item primarily for personal use for a period not exceeding 1 year from the date of entry, will not sell it in the United States during that period, and has stated his passport number and country of issue, if he has a passport, on the declaration.

(vi) The importer or consignee is a member of the armed forces of a foreign country on assignment in the U.S. or is a member of the personnel of a foreign government on assignment in the U.S. or other individual who is within the class of persons for whom free entry of vehicles has been authorized by the Department of State in accordance with general principles of international law, is importing the vehicle or equipment item for purposes other than resale; and a copy of his official orders, if any, is attached to the declaration (or, if a qualifying member of the personnel of a foreign government on assignment in the U.S., the name of the Embassy to which he is accredited is stated on the declaration).

(vii) The vehicle or equipment item is imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b)(1)(vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is considered to be imported for the purpose of competition), repair or alteration, and the statement required by 19 CFR 12.80(c)(2) or (c)(3) is attached to the declaration.

(viii) The vehicle was not manufactured primarily for use on the public roads and is not a "motor vehicle" as defined in section 102 of the Act (15 U.S.C. 1391).

(ix) The vehicle is an "incomplete vehicle" as defined in 49 CFR part 568.

(2) A vehicle imported solely for the purpose of test or experiment which is the subject of a declaration filed under paragraph (b)(1)(vii) of this section may be licensed for use on the public roads for a period not to exceed 1 year from the date of importation if use on the public roads is an integral part of the test or experiment. The vehicle
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may be licensed for use on the public roads for one or more further periods which, when added to the initial 1 year period, shall not exceed a total of 3 years, upon application to and approval by the Administrator, NHTSA.

(c) Declaration; contents. (1) Each declaration filed under paragraph (b)(1) of this section shall include the name and address in the United States of the importer or consignee, the date and the entry number (if applicable), the make, model, and engine and body serial numbers, or other identification number (if a vehicle), or a description of the item (if an equipment item), and shall be signed by the importer or consignee.

(2) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle or equipment item reported for the purpose of show, competition, repair, or alteration shall have attached a statement fully describing the use to be made of the vehicle or equipment item and its ultimate disposition.

(3) Each declaration filed under paragraph (b)(1)(vii) of this section which relates to a vehicle imported solely for the purpose of test or experiment shall have attached a statement fully describing the test or experiment, the estimated period of time necessary to use the vehicle on the public roads, and the disposition to be made of the vehicle after completion of the test or experiment.

(4) Any declaration filed under paragraph (b)(1) of this section may, if appropriate, relate to more than one vehicle or equipment item imported on the same entry.

(d) Declaration; disposition. The port director shall forward the original of each declaration submitted to him under paragraph (b)(1) of this section as soon as practicable to the Director, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Washington, DC 20590.

(e) Release under bond. (1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee gives a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter. An approval letter shall be issued upon approval by the Administrator, NHTSA, of the conformity statement submitted by the importer or consignee as provided for in paragraph (b)(1)(iii) of this section. The approval letter shall be forwarded by the Administrator, NHTSA, to the port director with a copy to the importer or consignee. Upon receipt of the approval letter the port director shall cancel the charge against the bond.

(2) If the approval letter is not received by the port director within 180 days after entry, the port director shall issue a Notice of Redelivery, Customs Form 4647, requiring the redelivery to Customs custody of the vehicle or equipment item. If the vehicle or equipment item is not delivered to Customs custody or exported under Customs supervision within the period allowed by the port director in the Notice of Redelivery, liquidated damages shall be assessed in the full amount of a bond if it is single entry bond or if a continuous bond is used, the amount that would have been taken under a single entry bond.

(f) Waiver of declaration requirements. The requirement that a declaration be filed under paragraph (b)(1)(i), (b)(1)(ii), or (b)(1)(v) of this section as a condition to the introduction of a vehicle or equipment item into the Customs territory of the United States may be waived by the port director for a United States, Canadian, or Mexican registered vehicle arriving via land borders.

(g) Vehicle or equipment item introduced by means of a fraudulent or false declaration. Any person who enters, introduces, attempts to enter or introduce, or aids or abets the entry, introduction, or attempted entry or introduction, of a vehicle or equipment item into the Customs territory of the United States by means of a fraudulent entry declaration, or by means of a false entry declaration made without reasonable cause to believe the truth of the declaration, may incur liabilities under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(h) Vehicle or equipment item denied entry. If a vehicle or equipment item is denied entry under the provisions of paragraph (b) of this section, the port director shall refuse to release the vehicle or equipment item for entry into
§ 12.85 Coast Guard boat and associated equipment safety standards.

(a) Applicability of standards or regulations prescribed by the Commandant, U.S. Coast Guard. Boats and associated equipment (as hereinafter defined) are subject to U.S. Coast Guard safety regulations or standards when imported or, under certain conditions, brought into the United States after November 1, 1972. Those regulations or standards are prescribed by the Commandant, U.S. Coast Guard, pursuant to sections 5, 7, and 39, Federal Boat Safety Act of 1971 (46 U.S.C. 1454, 1456, 1488), as set forth in 33 CFR parts 181, 183.

(1) The term “boats” includes:
   (i) All vessels manufactured or used primarily for noncommercial use.
   (ii) All vessels leased, rented, or chartered to another for the latter’s noncommercial use.
   (iii) All vessels engaged in the carrying of six or fewer passengers (see section 4.80 of this chapter on prohibitions against foreign vessels transporting passengers in the coastwise trade).

(2) For purposes of §12.85 the term “boat” does not include:
   (i) Foreign vessels temporarily using waters subject to U.S. jurisdiction.
   (ii) Military or public vessels of the United States, except recreational type public vessels.
   (iii) A vessel whose owner is a State or subdivision thereof, which is principally used for governmental purposes, and which is clearly identifiable as such.
   (iv) Ships’ lifeboats.

(3) The term “associated equipment” means:
   (i) Any system, part, or component of a boat as originally manufactured, or a similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component (excluding radio equipment).
   (ii) Any accessory or equipment for, or appurtenance to, a boat (excluding radio equipment).
   (iii) Any marine safety article, accessory, or equipment intended for use by a person on board a boat (excluding radio equipment).

(4) The term “product” as used in this section, includes the terms “boats” and “associated equipment” as defined in paragraphs (a) (1), (2), and (3) of this section.

(b) Evidence of compliance with boating standards or regulations as condition of entry. A product for which entry is sought into the Customs territory of the United States will, subject to the exceptions specified in paragraph (c) of this section, be denied entry unless accompanied by evidence of compliance with standards or regulations as follows:

(1) A product subject to standards prescribed in 33 CFR part 183 will have affixed to it a compliance certification label in accordance with the requirements of subpart B, 33 CFR part 181.

(2) A boat hull subject to subpart C, 33 CFR part 181 will have affixed to it a hull identification number affixed by the importer or the original manufacturer. The number shall comply with the format requirements of subpart C, 33 CFR part 181.

(c) Products not in compliance with standards or regulations: Alternative evidence required as condition of entry and release. Certain products shall be permitted entry and release without a compliance certification label or hull
United States Customs Service, Treasury

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Identification number affixed, as is required by subparts B and C, 33 CFR part 181, if they fall within one of the following categories, and if the conditions for entry and release specified for each category of product are met:

(1) Products manufactured before standards or regulations in effect. For certain products manufactured before an applicable standard or regulation was in effect, a declaration will be filed in accordance with the requirements of paragraph (d) of this section. The declaration will state that the product was manufactured before the applicable standard or regulation was in effect. If the port director believes that it is necessary in a particular case, he may communicate with the nearest Coast Guard district commander by the most expedient means to request that the Coast Guard determine that alteration of the product is not required.

(2) Products exempted from standards or regulations by Coast Guard Grant of Exemption. For certain products specifically exempted from applicable standards or regulations by a Coast Guard Grant of Exemption, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product has been specifically exempted from applicable standards or regulations by a U.S. Coast Guard Grant of Exemption, issued under the authority of section 9 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1458), and in effect on the date the product was manufactured. The declaration will also state that the product complies with all the terms and conditions of the exemption. A copy of the exemption, certified by the importer or consignee to be a true copy, shall be attached to each declaration.

(3) Products to be brought into conformity. In the case of products that are not in conformity at the time of entry but will be brought into conformity, a declaration will be filed in accordance with paragraph (d) of this section. The declaration will state that the product does not conform with applicable safety standards or regulations, but that the importer or consignee will bring the product into conformity with safety standards or regulations, and will also state that the product will not be sold or offered for sale, or used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States except for the purpose of bringing it into conformity, until the bond has been satisfied with respect to this obligation. To secure entry under this provision, bond must be given in accordance with paragraph (e)(1) of this section.

(4) Certain products entering the United States for repair or alteration. In the case of a nonresident of the United States who wishes to enter a product for the purpose of making repairs or alterations to it for a period not exceeding 1 year from the date of entry, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is a nonresident of the United States, that the product is being brought in for the purpose of making repairs or alterations to it, that it will not remain in the Customs territory of the United States for more than 1 year following the date of the entry, and that it will not be offered for sale, sold, or used for pleasure in waters subject to the jurisdiction of the United States during that time.

(5) Products owned by certain foreign governments. In the case of an importer or consignee employed in one of the capacities set forth in this subparagraph, a declaration will be filed in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is either a member of the armed forces of a foreign country on assignment in the U.S. or is a member of the personnel of a foreign government on assignment in the U.S. or other individual who comes within the class of persons for whom free entry of boats has been authorized by the Department of State in accordance with general principles of international law, and that he is importing the product for purposes other than resale.

(6) Certain products entered for tests, experiments, exhibits, or races. An importer or consignee seeking to enter a product for period not to exceed 1 year, for tests, experiments, exhibits, or races but not for sale in the United
States, shall file a declaration in accordance with paragraph (d) of this section. The declaration shall state that the importer or consignee is importing the product solely for the stated purpose and that it will not be sold or operated in the United States, unless the operation is an integral part of the stated use for which the product was imported. The importer or consignee shall attach to the declaration a description of use for which the product is being imported, the time period estimated for completion, and disposition to be made of the product after completion. Entry under this paragraph may be authorized for a period not to exceed 1 year from the date of importation. However, this period may be extended at the discretion of the port director for one or more additional periods which, when added to the initial 1-year period, shall not exceed a total of 3 years.

(d) Declaration requirements. All declarations submitted must:
(1) Be filed at the time of entry, in duplicate on Form CG-5096.
(2) Be signed by the importer or consignee.
(3) State the name and U.S. address of the importer or consignee.
(4) State the entry number and date.
(5) Provide the make, model, and hull identification number, if affixed, or date of manufacture if hull identification number not affixed, of any boat, and a description of any equipment or component.
(6) Identify, if known, the city or state in which the product will be principally located.
(7) Be sent by the port director, to the Commandant (G-BBS-1/42), U.S. Coast Guard, Washington, D.C. 20593.

(e) Release under bond—(1) When bond required. A bond will be required of the importer or consignee on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, in such amount as the port director deems appropriate, when a declaration is made that a product is to be brought into conformity. When the importer or consignee of a product declares that it will be brought into conformity before being sold or offered for sale, or before being used on waters subject to the jurisdiction of the United States and on the high seas beyond the territorial seas for a vessel owned in the United States and seeks entry of the product under paragraph (c)(3) of this section, the entry shall be accepted only if bond is given for the production of a statement by either the importer or the consignee that the product described in the declaration is in conformity with applicable safety standards or regulations. The statement shall identify the person or firm who has brought the product into conformity with the standards or regulations and shall describe the nature and extent of the work performed.
(2) Time limitation to produce statement for which bond is obligated. Within 180 days after entry, the importer or consignee shall deliver to both the port director and the Commandant, U.S. Coast Guard, a copy of the statement for production of which the bond was obligated. If the statement is not delivered to the director of the port of entry for one or more additional periods which, when added to the initial 1-year period, shall not exceed a total of 3 years.

(f) Products refused entry. If a product is denied entry under the provisions of this section, the port director shall refuse to release the product for entry into the United States and shall issue a notice of the refusal to the importer or consignee.

(g) Disposition of products refused entry into the United States; redelivered products. Products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (e)(2) of this section, and which are not exported under Customs supervision within 90 days from

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the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of a product in violation of the Federal Boat Safety Act of 1971 (46 U.S.C. 1451-1489).


§ 12.90 Definitions.

As used in §§ 12.90 and 12.91, the term “the Act” shall mean the Public Health Service Act (42 U.S.C. 201 et seq.), as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263b et seq.), and as further amended from time to time.


§ 12.91 Electronic products offered for importation under the Act.

(a) Standards prescribed by the Department of Health and Human Services. Electronic products offered for importation into the customs territory of the United States are subject to standards prescribed under section 358 of the Act (42 U.S.C. 263f) unless intended solely for export. Prescribed standards shall not apply to any electronic product intended solely for export if:

1. Such product and the outside of any shipping container used in the export of such product are labeled or tagged to show that it is intended for export, and

2. Such product meets all the applicable requirements of the country to which it is intended for export.

(See 21 CFR, chapter I, subchapter J.)

(b) Requirements for entry and release. Electronic products subject to standards in effect under section 358 of the Act (42 U.S.C. 263f), when offered for importation into the customs territory of the United States, shall be refused entry unless there is filed with the entry, in duplicate, a declaration (FDA Form FD 2877) verified by the importer of record which identifies the products and affirms:

1. That the electronic products were manufactured before the date of any applicable electronic product performance standard (the date of manufacture shall be specified); or

2. That the electronic products comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and chapter I, subchapter J, title 21, Code of Federal Regulations (21 CFR, chapter I, subchapter J), and that the certification required by section 360 of the Act (42 U.S.C. 263h) in the form of a label or tag is attached to the product; or

3. (i) That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f), and chapter I, subchapter J, title 21, Code of Federal Regulations (21 CFR, chapter I, subchapter J), but are being imported for the purpose of research, investigations, studies, demonstrations, or training, (ii) that the products will not be introduced into commerce and when the use for which they were imported is completed they will be destroyed or exported under Customs supervision, and (iii) that an exemption for these products has been or will be requested from the National Center for Devices and Radiological Health, Food and Drug Administration, in accordance with section 360B(b) of the Act (42 U.S.C. 263h); or

4. That the electronic products do not comply with all standards in effect under section 358 of the Act (42 U.S.C. 263f) and chapter I, subchapter J, Code of Federal Regulations (21 CFR, chapter I, subchapter J), but that a timely and adequate petition for permission to bring the products into compliance with applicable standards has been or will be filed with the Secretary of Health and Human Services in accordance with section 360 of the Public Health Service Act, as amended, and as implemented by 21 CFR 1005.21.

(c) Notice of sampling. When a sampling of a product offered for importation has been requested by the Secretary of Health and Human Services, as provided for in 21 CFR 1005.10, the port director having jurisdiction over the shipment from which the sample is
procured shall give to its owner or importer of record prompt notice of delivery of, or intention to deliver, the sample. If the notice so requires, the owner or importer of record shall hold the shipment of which the sample is typical and not release the shipment until notice of the results of the tests of the sample from the Secretary of Health and Human Services stating the product fulfills the requirements of the Act.

(d) Release under bond. If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry shall be accepted only if the owner or importer of record gives a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, for the production of a notification from the Secretary of Health and Human Services or his designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond shall be in an amount deemed appropriate by the port director. Within 180 days after the entry of such additional period as the port director may allow for good cause shown, the importer of record shall take any action necessary to insure delivery to the port director of the notification described in this paragraph. If the notification is not delivered to the director of the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the port director, for good cause shown, the importer of record shall deliver or cause to be delivered to the port director those electronic products which were released. In the event that any electronic products are not redelivered to Customs custody or exported under Customs supervision within the period allowed by the port director in the Notice of Redelivery (Customs Form 4647), liquidated damages shall be assessed in the full amount of a bond if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond.

(f) Merchandise refused entry. If electronic products are denied entry under any provision of this section, the port director shall refuse to release the merchandise for entry into the United States.

(g) Disposition of merchandise refused entry into the United States; redelivered merchandise. Electronic products which are denied entry under paragraph (b) of this section, or which are redelivered in accordance with paragraph (d) of this section, and which are not exported under Customs supervision within 90 days from the date of notice of refusal of admission or date of redelivery, shall be disposed of under Customs laws and regulations. However, no such disposition shall result in an introduction into the United States of an electronic product in violation of the Act (42 U.S.C. 263f, 263h).


SWITCHBLADE KNIVES

§12.95 Definitions.

Terms as used in §§12.96 through 12.103 of this part are defined as follows:

(a) Switchblade knife. “Switchblade knife” means any imported knife, or components thereof, or any class of imported knife, including “switchblade”, “Balisong”, “butterfly”, “gravity” or “ballistic” knives, which has one or more of the following characteristics or identities:

(1) A blade which opens automatically by hand pressure applied to a button or device in the handle of the knife, or any knife with a blade which opens...
automatically by operation of inertia, gravity, or both;

(2) Knives which, by insignificant preliminary preparation, as described in paragraph (b) of this section, can be altered or converted so as to open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both;

(3) Unassembled knife kits or knife handles without blades which, when fully assembled with added blades, springs, or other parts, are knives which open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both;

(4) Knives with a detachable blade that is propelled by a spring-operated mechanism, and components thereof.

(b) Insignificant preliminary preparation. "Insignificant preliminary preparation" means preparation with the use of ordinarily available tools, instruments, devices, and materials by one having no special manual training or skill for the purpose of modifying blade heels, relieving binding parts, altering spring restraints, or making similar minor alterations which can be accomplished in a relatively short period of time.

(c) Utilitarian use. "Utilitarian use" includes but is not necessarily limited to use:

(1) For a customary household purpose;

(2) For usual personal convenience, including grooming;

(3) In the practice of a profession, trade, or commercial or employment activity;

(4) In the performance of a craft or hobby;

(5) In the course of such outdoor pursuits as hunting and fishing; and

(6) In scouting activities.


§ 12.96 Imports unrestricted under the Act.

(a) Common and special purpose knives. Imported knives with a blade style designed for a primary utilitarian use, as defined in §12.95(c), shall be admitted to unrestricted entry provided that in condition as entered the imported knife is not a switchblade knife as defined in §12.95(a)(1). Among admissible common and special purpose knives are jackknives and similar standard pocketknives, special purpose knives, scout knives, and other knives equipped with one or more blades of such single edge nonweapon styles as clip, Skinner, pruner, sheep foot, spey, coping, razor, pen, and cuticle.

(b) Weapons with fixed blades. Importations of certain articles having a fixed unexposed or exposed blade are not within the prohibition of 15 U.S.C. 1241 through 1245. However, upon release by Customs, possession of these admissible articles which include such weapons as sword canes, camel whips, swords, sheath knives, machetes and similar devices that may be capable of use as weapons may be in violation of State or municipal laws.


§ 12.97 Importations contrary to law.

Importations of switchblade knives, except as permitted by 15 U.S.C. 1244, are importations contrary to law and are subject to forfeiture under 19 U.S.C. 1595a(c).

[T.D. 90-50, 55 FR 28192, July 10, 1990]

§ 12.98 Importations permitted by statutory exceptions.

The importation of switchblade knives is permitted by 15 U.S.C. 1244, when:

(a) Imported pursuant to contract with a branch of the Armed Forces of the United States;

(b) Imported by a branch of the Armed Forces of the United States or any member or employee thereof acting in the performance of his duty; or

(c) A switchblade knife, other than a ballistic knife, having a blade not exceeding 3 inches in length is in the possession of and is being transported on the person of an individual who has only one arm.

§ 12.99 Procedures for permitted entry.

(a) Declaration required. The entry of switchblade knives, the importation of which is permitted under § 12.98 shall be accompanied by a declaration, in duplicate, of the importer or consignee stating the facts of the import transaction as follows:

(1) Importation pursuant to Armed Forces contract. (i) The names of the contracting Armed Forces branch and its supplier;

(ii) The specific contract relied upon identified by its date, number, or other contract designation; and

(iii) A description of the kind or type of knife imported, the quantity entered, and the aggregate entered value of the importation.

(2) Importation by a branch, member, or employee of the Armed Forces. (i) The name of the Armed Forces branch by or for the account of which entry is made or the branch of the importing member or employee acting in performance of duty; and

(ii) The description, quantity, and aggregate entered value of the importation.

(3) Importation by a one-armed person. A statement that the knife has a blade not exceeding 3 inches in length and is possessed by and transported on the declarant’s person solely for his necessary personal convenience, accommodation, and use as a one-armed individual.

(b) Attachments to declaration. Details for purposes of a declaration required under paragraph (a) of this section may be furnished by reference in the declaration to attachment of the original or copy of the contract or other documentation which contains the information.

(c) Execution of declaration. Declarations required by paragraph (a) of this section shall be executed as follows:

(1) Contract supplier; Armed Forces branch; member or employee. Declarations made under paragraph (a) or (b) of § 12.98 shall affirm that facts and data furnished are declared on knowledge, information, or belief of a signing officer, partner, or authorized representative of an importing contract supplier or of a commissioned officer, contracting officer, or employee authorized to represent an Armed Forces importing branch. The signature to a declaration shall appear over the declarant’s printed or typewritten name, his title or rank, and the identity of the contract supplier or Armed Forces branch he represents or in which he has membership or employment.

(2) One-armed person. Declarations made under paragraph (c) of § 12.98, signed by the eligible person, shall be presented upon his arrival directly to a Customs officer who shall visually confirm the facts declared. An eligible knife shall be released only to the declarant.

(d) Verification of declared information. The importer, consignee, or declarant of knives permitted entry under § 12.98 upon request shall furnish Customs additional documentary evidence from an Armed Forces branch or other relevant source as Customs officers may require in order to:

(1) Verify declared statements;

(2) Resolve differences pertaining to quantity, description, value, or other discrepancy disclosed by the importation, entry, or related documentation;

(3) Establish the declarant’s authority to act; or

(4) Authenticate a signature.


§ 12.100 Importations in good faith; common or contract carriage.

(a) Exportation in lieu of seizure. Upon a claim that the importer acted in good faith without knowledge of applicable laws and regulations, Customs officers may authorize detained inadmissible knives to be exported otherwise than in the mails, at no expense to the Government, under the procedures of §§18.25 through 18.27 of this chapter.

(b) Common or contract carriers. In accordance with 15 U.S.C. 1244(1), excepted from the penalties of the Act are the shipping, transporting, or delivering for shipment in interstate commerce, in the ordinary course of business of common or contract carriage, of any switchblade knife. However, imported switchblade knives as defined in §12.95(a) so shipped or transported to a port of entry or place of Customs examination are prohibited importations subject to §§12.95–12.103 and disposition
§ 12.101 Seizure of prohibited switchblade knives.

(a) Importations contrary to law. Inadmissible importations which are not exported in accordance with § 12.100(a) shall be seized under 19 U.S.C. 1595a(c).

(b) Notice of seizure. Notice of Customs seizure shall be sent or given to the importer or consignee, which shall inform him of his right to file a petition under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized switchblade knives. (See part 171 of this chapter.)

§ 12.102 Forfeiture.

If the importer or consignee fails to submit, within 60 days after being notified of his right to do so, a petition under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), for remission of the forfeiture and permission to export the seized importation, the seized prohibited knives shall be forfeited in accordance with applicable provisions of sections 602 through 611, Tariff Act of 1930, as amended (19 U.S.C. 1602 through 1611), and the procedures of part 162 of this chapter.

§ 12.103 Report to the U.S. Attorney.

Should circumstances and facts of the import transaction show evidence of deliberate violation of 15 U.S.C. 1241 through 1245, so as to present a question of criminal liability, the evidence, accompanied by reports of investigative disclosures, findings, and recommendation, shall be transmitted to the U.S. Attorney for consideration of criminal prosecution. The port director shall hold the seized switchblade knives intact pending disposition of the case.
§ 12.104a Importations prohibited.  

Cultural Property adopted by the General Conference of the United Nations Educational, Scientific, and Cultural Organization at its sixteenth session (823 U.N.T.S. 231 (1972)).  

(c) The term cultural property includes articles described in Article 1(a) through (k) of the Convention, whether or not any such article is specifically designated by any State Party for the purposes of Article 1. Article 1 lists the following categories:

1. Rare collections and specimens of fauna, flora, minerals and anatomy, and objects of palaeontological interest;
2. Property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;
3. Products of archaeological excavations (including regular and clandestine) or of archaeological discoveries;
4. Elements of artistic or historical monuments or archaeological sites which have been dismembered;
5. Antiquities more than 100 years old, such as inscriptions, coins and engraved seals;
6. Objects of ethnological interest;
7. Property of artistic interest, such as:
   i. Pictures, paintings and drawings produced entirely by hand on any support and in any material (excluding industrial designs and manufactured articles decorated by hand);
   ii. Original works of statuary art and sculpture in any material;
   iii. Original engravings, prints and lithographs;
   iv. Original artistic assemblages and montages in any material;
8. Rare manuscripts and incunabula, old books, documents and publications of special interest (historical, artistic, scientific, literary, etc.) singly or in collections;
9. Postage, revenue and similar stamps, singly or in collections;
10. Archives, including sound, photographic and cinematographic archives;
11. Articles of furniture more than 100 years old and old musical instruments.

(d) The term designated archaeological or ethnological material means any archaeological or ethnological material of the State Party which—

1. Is—
   i. Covered by an agreement under 19 U.S.C. 2602 that enters into force with respect to the U.S., or
   ii. Subject to emergency action under 19 U.S.C. 2603 and

(e) The term museum means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or esthetic purposes, which, utilizing a professional staff, owns or utilizes tangible objects, cares for them, and exhibits them to the public on a regular basis (Museum Services Act; Pub. L. 94-462; 20 U.S.C. 968). For the purposes of these regulations, the term recognized museum under the Cultural Property Implementation Act shall be synonymous with museum.

(f) The term Secretary means the Secretary of the Treasury or his delegate, the Commissioner of Customs.

(g) The term State Party means any nation which has ratified, accepted, or acceded to the 1970 UNESCO Convention.

(h) The term United States or U.S., includes the customs territory of the United States, the U.S. Virgin Islands and any territory or area the foreign relations for which the U.S. is responsible.


§ 12.104a Importations prohibited.

(a) No article of cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any State Party which was stolen from such museum, monument, or institution after April 12, 1983, or after the date of entry into force of the Convention for the State Party, whichever date is later, may be imported into the U.S.

(b) No archaeological or ethnological material designated pursuant to 19 U.S.C. 2604 and listed in §12.104g, that is exported (whether or not such exportation is to the U.S.) from the State
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§ 12.104b State Parties to the Convention.

(a) The following is a list of State Parties which have deposited an instrument of ratification, acceptance, accession or succession, the date of such deposit and the date of entry into force for each State Party:

<table>
<thead>
<tr>
<th>State Party</th>
<th>Date of deposit</th>
<th>Date of entry into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Algeria</td>
<td>June 24, 1974 (R)</td>
<td>Sept. 24, 1974</td>
</tr>
<tr>
<td>Argentina</td>
<td>Jan. 11, 1973 (R)</td>
<td>Apr. 11, 1973</td>
</tr>
<tr>
<td>Armenia, Republic of</td>
<td>Sept. 5, 1993 (S)</td>
<td>See Note 1</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>Dec. 9, 1987 (R)</td>
<td>Mar. 9, 1988</td>
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<td>Belarus</td>
<td>Apr. 28, 1988 (R)</td>
<td>July 28, 1988</td>
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<td>Bosnia-Herzegovina</td>
<td>July 12, 1993 (S)</td>
<td>See Note 2</td>
</tr>
<tr>
<td>Brazil</td>
<td>Feb. 16, 1973 (R)</td>
<td>May 16, 1973</td>
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<tr>
<td>Bulgaria</td>
<td>Sept. 15, 1971 (R)</td>
<td>Apr. 24, 1972</td>
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<td>Burkina Faso</td>
<td>Apr. 7, 1987 (R)</td>
<td>July 7, 1987</td>
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<td>Cameroon</td>
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<td>Central African Republic</td>
<td>Feb. 1, 1972 (R)</td>
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<td>China, People's Republic of</td>
<td>Nov. 28, 1989 (Ac)</td>
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<td>Croatia</td>
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<td>See Note 2</td>
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<tr>
<td>Czech Republic</td>
<td>Mar. 26, 1993 (S)</td>
<td>See Note 4</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>Mar. 7, 1973 (R)</td>
<td>June 7, 1973</td>
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<td>Ecuador</td>
<td>Mar. 24, 1971 (Ac)</td>
<td>Apr. 24, 1972</td>
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<td>Egypt</td>
<td>Apr. 5, 1973 (Ac)</td>
<td>July 5, 1973</td>
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<td>Georgia, Republic of</td>
<td>Nov. 4, 1992 (S)</td>
<td>See Note 1</td>
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<td>Guinea</td>
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<td>June 18, 1979</td>
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<td>Jan. 24, 1977 (R)</td>
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<td>Iran</td>
<td>Jan. 27, 1975 (Ac)</td>
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<td>Mar. 15, 1974 (R)</td>
<td>June 15, 1974</td>
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<td>May 13, 1983 (R)</td>
<td>Aug. 13, 1983</td>
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<td>Jan. 9, 1973 (R)</td>
<td>Apr. 9, 1973</td>
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<td>Madagascar</td>
<td>June 21, 1989 (R)</td>
<td>Sept. 21, 1989</td>
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<td>Apr. 6, 1987 (R)</td>
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<td>Sept. 23, 1976</td>
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<td>Panama</td>
<td>Aug. 13, 1973 (Ac)</td>
<td>Nov. 13, 1973</td>
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<td>Poland</td>
<td>Jan. 31, 1974 (R)</td>
<td>Apr. 30, 1974</td>
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<td>Portugal</td>
<td>Dec. 9, 1985 (R)</td>
<td>Mar. 9, 1986</td>
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<tr>
<td>Qatar</td>
<td>Apr. 20, 1977 (Ac)</td>
<td>July 20, 1977</td>
</tr>
<tr>
<td>Romania</td>
<td>Dec. 6, 1993 (R)</td>
<td>Mar. 6, 1994</td>
</tr>
</tbody>
</table>
§ 12.104c Importations permitted.

Designated archaeological or ethnological material for which entry is sought into the U.S., will be permitted entry if at the time of making entry:

(a) A certificate, or other documentation, issued by the Government of the country of origin of such material in a form acceptable to the Secretary is filed with the port director, such form being, but not limited to, an affidavit, license, or permit from an appropriate, authorized State Party official under seal, certifying that such exportation was not in violation of the laws of that country, or

(b) Satisfactory evidence is presented to the port director such designated material was exported from the State Party not less than 10 years before the date of entry into the U.S., and neither the person for whose account the material is imported (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than 1 year before that date of entry, or

(c) Satisfactory evidence is presented to the port director such designated material was exported from the State Party on or before the date on which such material was designated under 19 U.S.C. 2604.

(d) The term “satisfactory evidence” means—

(1) For purposes of paragraph (b) of this section—

(i) One or more declarations under oath by the importer, or the person for whose account the material is imported, stating that, to the best of his knowledge—

(A) The material was exported from the State Party not less than 10 years before the date of entry into the U.S., and

(B) Neither such importer or person (or any related person) contracted for or acquired an interest, directly or indirectly, in such material more than 1 year before the date of entry of the material;

(ii) A statement provided by the consignor, or person who sold the material to the importer, which states the date,
United States Customs Service, Treasury

§ 12.104e Detention of articles; time in which to comply.

In the event an importer cannot produce the certificate, documentation, or evidence required in §12.104c at the time of making entry, the port director shall take the designated archaeological or ethnological material into Customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate, documentation, or evidence is presented to such officer. The certificate, documentation, or evidence must be presented within 90 days after the date on which the material is taken into Customs custody, or such longer period as may be allowed by the port director for good cause shown.

§ 12.104e Seizure and forfeiture.

(a) Whenever any designated archaeological or ethnological material is imported into the U.S. in violation of 19 U.S.C. 2606, and the importer states in writing that he will not attempt to secure the certificate, documentation, or evidence required by §12.104c, or such certificate, documentation, or evidence is not presented to the port director before the expiration of the time provided in §12.104d, the material shall be seized and summarily forfeited to the U.S. in accordance with part 162 of this chapter.

(1) Any designated archaeological or ethnological material which is forfeited to the U.S. shall, in accordance with the provisions of Title III of Pub. L. 97-446, 19 U.S.C. 2609(b):
   (i) First be offered for return to the State Party;
   (ii) If not returned to the State Party be returned to a claimant with respect to whom the designated material was forfeited if that claimant establishes—
      (A) Valid title to the material;
      (B) That the claimant is a bona fide purchaser for value of the material; or
   (iii) If not returned to the State Party under paragraph (a)(1)(i) of this section or to a claimant under paragraph (a)(1)(ii) of this section, be disposed of in the manner prescribed by law for articles forfeited for violation of the customs laws. No return of material may be made under paragraph (a)(1)(i) or (ii) of this section unless the State Party or claimant, as the case may be, bears the expenses incurred incident to the return and delivery, and complies with such other requirements relating to the return as the Secretary shall prescribe.

(b) Whenever any stolen article of cultural property is imported into the U.S. in violation of 19 U.S.C. 2607, such cultural property shall be seized and
§ 12.104f Temporary disposition of materials and articles.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the U.S. in violation of 19 U.S.C. 2606 or 19 U.S.C. 2607, the Secretary may permit such material or article to be retained at a museum or other cultural or scientific institution in the U.S. if he finds that sufficient safeguards will be taken by the museum or institution for the protection of such material or article; and sufficient bond is posted by the museum or institution to ensure its return to the Secretary.

§ 12.104g Specific items or categories designated by agreements or emergency actions.

(a) The following is a list of agreements imposing import restrictions on the described articles of cultural property of State Parties. The listed Treasury Decision contains the Designated Listing with a complete description of specific items or categories of archaeological or ethnological material designated by the agreement as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. Any such extension is indicated in the listing.

<table>
<thead>
<tr>
<th>State party</th>
<th>Cultural Property</th>
<th>T.D. No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>Archaeological Artifacts and Ethnological Material Culture of Canadian Origin.</td>
<td>T.D. 97–31</td>
</tr>
<tr>
<td>El Salvador</td>
<td>Archaeological material representing Prehispanic cultures of El Salvador.</td>
<td>T.D. 95–20 extended by T.D. 00–16</td>
</tr>
<tr>
<td>Guatemala</td>
<td>Archaeological material from sites in the Peten Lowlands of Guatemala, and related Pre–Columbian material from the Highlands and the Southern Coast of Guatemala.</td>
<td>T.D. 97–81</td>
</tr>
<tr>
<td>Mali</td>
<td>Archaeological material from the Niger River Valley Region, Mali, and the Bandiagara Escarpment (Cliff) forming part of the remains of the sub-Sahara culture.</td>
<td>T.D. 97–80</td>
</tr>
<tr>
<td>Peru</td>
<td>Archaeological artifacts and ethnological material from Peru.</td>
<td>T.D. 97–50</td>
</tr>
</tbody>
</table>

(b) The following is a list of emergency actions imposing import restrictions on the described articles of cultural property of State Parties. The listed Treasury Decision contains a complete description of specific items or categories of archaeological or ethnological material designated by the emergency actions as coming under the protection of the Convention on Cultural Property Implementation Act. Import restrictions listed below shall be effective for no more than five years from the date on which the State Party requested those restrictions. This period may be extended for three more years if it is determined that the emergency condition continues to apply with respect to the archaeological or ethnological material. Any such extension is indicated in the listing.
§ 12.104h Exempt materials and articles.

The provisions of these regulations shall not apply to—

(a) Any archaeological or ethnological material or any article of cultural property which is imported into the U.S. for temporary exhibition or display, if such material or article is rendered immune from seizure under judicial process by the U.S. Information Agency, Office of the General Counsel, pursuant to the Act entitled “An Act to render immune from seizure under judicial process certain objects of cultural significance imported into the United States for temporary display or exhibition, and for other purposes,” approved October 19, 1965 (22 U.S.C. 2459); or

(b) Any designated archaeological or ethnological material or any article of cultural property imported into the U.S. if such material or article—

(1) Has been held in the U.S. for a period of not less than 3 consecutive years by a recognized museum or religious or secular monument or similar institution, and was purchased by that institution for value, in good faith, and without notice that such material or article was imported in violation of these regulations, but only if—

(i) The acquisition of such material or article has been reported in a publication of such institution, any regularly published newspaper or periodical with a circulation of at least 50,000, or a periodical or exhibition catalog which is concerned with the type of article or materials sought to be exempted from these regulations,

(ii) Such material or article has been exhibited to the public for a period or periods aggregating at least 1 year during such 3-year period, or

(iii) Such article or material has been cataloged and the catalog material made available upon request to the public for at least 2 years during such 3-year period;

(2) If paragraph (b)(1) of this section does not apply, has been within the U.S. for a period of not less than 10 consecutive years and has been exhibited for not less than 5 years during such period in a recognized museum or religious or secular monument or similar institution in the U.S. open to the public;

(3) If paragraphs (b) (1) and (2) of this section do not apply, has been within the U.S. for a period of not less than 10 consecutive years and the State Party concerned has received or should have received during such period fair notice (through such adequate and accessible publication, or other means, as the Secretary or his designee shall prescribe) of its location within the U.S.; and

(4) If none of the preceding subparagraphs apply, has been within the U.S. for a period of not less than 20 consecutive years and the claimant establishes that it purchased the material or article for value without knowledge or reason to believe that it was imported in violation of law.

§ 12.104i Enforcement.

In the customs territory of the United States, and in the U.S. Virgin Islands, the provisions of these regulations shall be enforced by appropriate customs officers. In any other territory or area within the U.S., but not within

- Bolivia宜傳教和日本學會材料
- Cambodia 宜傳教和日本學會材料
- Cyprus 宜傳教和日本學會材料

[其他條款和細則的引用]
such customs territory or the U.S. Virgin Islands, such provisions shall be enforced by such persons as may be designated by the President.

PRE-COLUMBIAN MONUMENTAL AND ARCHITECTURAL SCULPTURE AND MURALS

§ 12.105 Definitions.

For purposes of §§ 12.106 through 12.109:

(a) The term pre-Columbian monumental or architectural sculpture or mural means any stone carving or wall art listed in paragraph (b) of this section which is the product of a pre-Columbian Indian culture of Belize, Bolivia, Columbia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela.

(b) The term stone carving or wall art includes:

(1) Such stone monuments as altars and altar bases, archways, ball court markers, basins, calendars, and calendrical markers, columns, monoliths, obelisks, statues, stelae, sarcophagi, thrones, zoomorphs;

(2) Such architectural structures as aqueducts, ball courts, buildings, bridges, causeways, courts, doorways (including lintels and jambs), forts, observatories, plazas, platforms, facades, reservoirs, retaining walls, roadways, shrines, temples, tombs, walls, walkways, wells;

(3) Architectural masks, decorated capstones, decorative beams of wood, frescoes, friezes, glyphs, graffiti, mosaics, moldings, or any other carving or decoration which had been part of or affixed to any monument or architectural structure, including cave paintings or designs;

(4) Any fragment or part of any stone carving or wall art listed in the preceding subparagraphs.

(c) The term country of origin, as applied to any pre-Columbian monumental or architectural sculpture or mural, means the country where the sculpture or mural was first discovered.


§ 12.106 Importation prohibited.

Except as provided in section 12.107, no pre-Columbian monumental or architectural sculpture or mural which is exported (whether or not such exportation is to the United States) from its country of origin after June 1, 1973, may be imported into the United States.


§ 12.107 Importations permitted.

Pre-Columbian monumental or architectural sculpture or mural for which entry is sought into the Customs territory of the United States will be permitted entry if at the time of making entry:

(a) A certificate, issued by the Government of the country of origin of such sculpture or mural, in a form acceptable to the Secretary, certifying that such exportation was not in violation of the laws of that country, is filed with the port director; or

(b) Satisfactory evidence is presented to the port director that such sculpture or mural was exported from the country of origin on or before June 1, 1973; or

(c) Satisfactory evidence is presented to the port director that such sculpture or mural is not an article listed in § 12.105.


§ 12.108 Detention of articles; time in which to comply.

If the importer cannot produce the certificate or evidence required in § 12.107 at the time of making entry, the port director shall take the sculpture or mural into Customs custody and send it to a bonded warehouse or public store to be held at the risk and expense of the consignee until the certificate or evidence is presented to such officer. The certificate or evidence must be presented within 90 days after the date on which the sculpture or mural is taken into Customs custody, or such longer period as may be allowed by the port director for good cause shown.

[T.D. 73-119, 38 FR 10807, May 2, 1973]
§ 12.109 Seizure and forfeiture.
   (a) Whenever any pre-Columbian monumental or architectural sculpture or mural listed in § 12.105 is detained in accordance with § 12.108 and the importer states in writing that he will not attempt to secure the certificate or evidence required, or such certificate or evidence is not presented to the port director prior to the expiration of the time provided in § 12.108, the sculpture or mural shall be seized and summarily forfeited to the United States in accordance with part 162 of this chapter.
   (b) Any pre-Columbian monumental or architectural sculpture or mural which is forfeited to the United States shall in accordance with the provisions of Title II of Pub. L. 92-587, 19 U.S.C. 2093(b):
      (1) First be offered for return to the country of origin, and shall be returned if that country presents a request in writing for the return of the article and agrees to bear all expenses incurred in connection with such return; or
      (2) If not returned to the country of origin, be disposed of in accordance with law, pursuant to the provisions of section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609), and § 162.46 of this chapter.

§ 12.110 Definitions.
   Except as otherwise provided below, the terms used in §§12.111 through 12.117 shall have the meanings set forth for those terms in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.), hereinafter referred to as “the Act.” The term Administrator shall mean the Administrator of the Environmental Protection Agency.

§ 12.111 Registration.
   All imported pesticides are required to be registered under the provisions of section 3 of the Act, and under the regulations (40 CFR 162.10) promulgated thereunder by the Administrator before being permitted entry into the United States. Devices, although not required to be registered, must not bear any statement, design, or graphic representation that is false or misleading in any particular.

§ 12.112 Notice of arrival of pesticides and devices.
   (a) General. An importer desiring to import pesticides or devices into the United States shall submit to the Administrator a Notice of Arrival of Pesticides and Devices (Environmental Protection Agency Form 3540-1), hereinafter referred to as a Notice of Arrival, prior to the arrival of the shipment in the United States. The Administrator shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in the United States, and shall return the completed Notice of Arrival to the importer or his agent.
   (b) Chemicals imported for use other than as pesticides. Chemicals which can be used as pesticides but which are not imported for such use and are not shown on the Abbreviated List of Pesticides compiled by the Environmental Protection Agency, may be entered without the submission of the Notice of Arrival.

§ 12.113 Arrival of shipment.
   (a) Notice of arrival presented. Upon the arrival of a shipment of pesticides or devices, the importer or his agent shall present to the director of the port of entry the Notice of Arrival completed by the Administrator and indicating the Customs action to be taken with respect to the shipment. The port director shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies.
   (b) Notice of arrival not presented. When a shipment of pesticides or devices arrives in the United States without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the
§ 12.114 Release or refusal of delivery.

If the completed Notice of Arrival directs the port director to release the shipment of pesticides or devices, the shipment shall be released to the consignee. If the completed Notice of Arrival directs the port director to refuse delivery of the shipment, the shipment shall be refused delivery and treated as a prohibited importation. The port director shall cause the destruction of any such shipment not exported by the consignee within 90 days after the expiration of the detention period specified or authorized pursuant to §12.113(b).

[T.D. 75-194, 40 FR 32322, Aug. 1, 1975]

§ 12.115 Release under bond.

If the completed Notice of Arrival so directs, a shipment of pesticides or devices shall be detained at the importer's expense by the port director pending an examination by the Administrator to determine whether the shipment complies with the requirements of the Act. However, a shipment detained for examination may be released to the consignee prior to a determination by the Administrator provided a bond is furnished on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, for the return of the merchandise to Customs custody. The bond shall be in an amount deemed appropriate by the port director. When a shipment of pesticides or devices is released to the consignee under bond, the shipment shall not be used or otherwise disposed of until the determination is made by the Administrator.


§ 12.116 Samples.

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the port director shall deliver to the Administrator samples of the imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise. The port director shall notify the consignee, in writing, that the samples of imported pesticides or devices, together with all accompanying labels, circulars, and advertising matter pertaining to such merchandise have been delivered to the Administrator.

[T.D. 75-194, 40 FR 32322, Aug. 1, 1975]

§ 12.117 Procedure after examination.

(a) Merchandise complying with the Act. If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in compliance with the Act, the Administrator shall notify the port director that the shipment may be released to the consignee.

(b) Merchandise not complying with the Act. If, upon examination or analysis of a sample from a shipment of pesticides or devices, the sample is found to be in violation of the Act, the consignee shall be notified promptly by the Administrator of the nature of the violation and be given a reasonable time, not to exceed 20 days, to submit written material or, at his option, to appear before the Administrator and introduce testimony, to show cause why the shipment should not be destroyed or refused entry. If, after consideration
of all the evidence presented, it is still
the opinion of the Administrator that
the merchandise is in violation of the
Act, the Administrator shall notify the
port director of this opinion and the
port director shall either (1) refuse de-


delivery to the consignee, or (2) if the

ship has been released to the con-
signee under bond, demand redelivery
of the shipment under the terms of the
bond. If the merchandise is not redeliv-
ered within 30 days after the date of de-

mand by the port director, the port di-

rector shall issue a demand for liq-

uidated damages in the full amount of

the bond if it is a single entry bond, or
if a continuous bond is used, the

amount that would have been taken

under a single entry bond. The port di-

rector shall cause the destruction of

any merchandise refused delivery to

the consignee, or redelivered by the

consignee pursuant to a demand there-

for, and not exported by the consignee

within 90 days after notice of such re-

fusal of delivery or within 90 days after

such redelivery, as applicable.

T.D. 75–194, 40 FR 32322, Aug. 1, 1975, as
amended by T.D. 84–213, 49 FR 41168, Oct. 19,
1984

CHEMICAL SUBSTANCES IN BULK AND AS
PART OF MIXTURES AND ARTICLES

SOURCE: Sections 12.118 through 12.127 were
issued under T.D. 83–158, 48 FR 34739, Aug. 1,
1983, unless otherwise noted.

§ 12.118 Toxic Substances Control Act.
The importation into the customs
territory of the United States of a
chemical substance in bulk or as part of
a mixture, or article containing a
chemical substance or mixture, is gov-

ermed by the Toxic Substances Control

Act ("TSCA") (15 U.S.C. 2601 et seq.),
and by regulations issued under the au-

thority of section 13(b), TSCA (15
U.S.C. 2612(b)) by the Secretary of the
Treasury in consultation with the Ad-
nistrator, Environmental Protection
Agency ("EPA").

§ 12.119 Scope.
Sections 12.120 through 12.127 apply
to the importation into the customs
territory of the United States of chem-
ical substances in bulk and as part of
mixtures under TSCA. Sections 12.120
through 12.127 also apply to articles
containing a chemical substance or
mixture if so required by the Adminis-
trator by specific rule under TSCA.

§ 12.120 Definitions.
Except as otherwise provided below,
the terms used in §§12.121 through
12.127 have the meanings set forth for
those terms in TSCA.

(a) Article—(1) Article means a manu-

factured item which:
(i) Is formed to a specific shape or de-

dign during manufacture,
(ii) Has end use functions dependent

in whole or in part upon its shape or
design during the end use, and
(iii) Has either no change of chemical
composition during its end use or only
those changes of composition which
have no commercial purpose separate
from that of the article and that may
occur as described in §12.120(a)(2); ex-
cept that fluids and particles are not
considered articles regardless of shape
or design.

(2) The allowable changes of composi-
tion, referred to in §12.120(a)(1), are
those which result from a chemical re-
action that occurs upon the end use of
other chemical substances, mixtures,
or articles such as adhesives, paints,
miscellaneous cleaners or other house-
hold products, fuels and fuel additives,
water softening and treatment agents,
photographic films, batteries, matches,
and safety flares in which the chemical
substance manufactured upon end use
of the article is not itself manufac-
tured for distribution in commerce or
for use as an intermediate.

(b) Chemical substance in bulk form
means a chemical substance (other
than as part of a mixture or article) in
containers used for purposes of trans-
portation or containment, provided
that the chemical substance is in-
tended to be removed from the con-
tainer and has an end use or commer-
cial purpose separate from the con-
tainer.

§ 12.121 Reporting requirements.
(a) Chemical substances in bulk or mix-
tures—(1) Certification required. The im-
porter of a chemical substance im-
ported in bulk or as part of a mixture,
or the authorized agent of such an im-
porter, must certify either that the
§ 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

(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.

§ 12.122 Chemical shipments.

A 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 § 142.21 of this chapter, 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 consider 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.

§ 12.122 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.

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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.
(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(k), 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 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:
(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:
§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.
(b) Time extensions. The port director, upon notification by the Administrator, may grant an extension of not more than 30 days if, due to delays caused by the Environmental Protection Agency or the Customs Service:
(1) The importer is unable, for good cause shown, to bring a shipment into compliance with the Act within the required time period; or
(2) The importer is unable to export the shipment from the customs territory of the United States within the required time period.
§ 12.125 Notice of exportation.

Whenever the Administrator directs the port director to refuse entry under §12.123 and the importer exports the non-complying shipment within the 30 day period of notice of refusal of entry or within 90 days of demand for redelivery, the importer shall give written notice of the fact of exportation to the Administrator and the port director. The importer shall include the following information in the notice of exportation:

(a) The name and address of the exporter or his agent;
(b) A description of the chemical substances, mixtures, or articles exported;
(c) The destination (country);
(d) The port of arrival at the destination;
(e) The carrier;
(f) The date of exportation; and
(g) The bill of lading or the air way bill number.

§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer shall present a written notice of intent to abandon to the port director and the Administrator. Notification under this section is a waiver of any right to export the merchandise. The importer shall remain liable for any expense incurred in the storage and/or disposal of abandoned merchandise.

§ 12.127 Decision to store or dispose.

(a) A shipment detained under §12.122 shall be considered to be unclaimed or abandoned and shall be turned over to the Administrator for storage or disposition as provided for in §127.28(l) of this chapter if the importer has not brought the shipment into compliance with TSCA and has not exported the shipment within time limitations or extensions specified according to §12.124. The importer shall remain liable for any expenses in the storage and/or disposal of abandoned merchandise.

Textiles and Textile Products

§ 12.130 Textiles and textile products country of origin.

(a) General. Textile or textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), include merchandise which is subject to the provisions of the International Arrangement Regarding Trade in Textiles (The Multi-Fiber Arrangement).

(1) Is in chief value of cotton, wool, or man-made fibers, or any textile fibers subject to the terms of any textile trade agreement, or any combination thereof; or
(2) Contains 50 percent or more by weight of cotton or man-made fibers, or any textile fibers subject to the terms of any textile trade agreement, or any combination thereof; or
(3) Contains 17 percent or more by weight of wool; or
(4) If in chief value of textile fibers or textile materials, contains a blend of cotton, wool, or man-made fibers, or any textile fibers subject to the terms of any textile trade agreement, or any combination thereof, which fibers, in the aggregate amount to 50 percent or more by weight of all component fibers.

(b) Country of origin. For the purpose of this section and except as provided in paragraph (c), a textile or textile product, subject to section 204, which consists of materials produced or derived from, or processed in, more than one foreign territory or country, or insular possession of the U.S., shall be a product of that foreign territory or country, or insular possession where it last underwent a substantial transformation. A textile or textile product will be considered to have undergone a substantial transformation if it has been transformed by means of substantial manufacturing or processing operations into a new and different article of commerce. However, the origin of products of Canada and Mexico, and the origin of textile and apparel products covered by §102.21...
of this chapter, are determined pursuant to the procedures set forth in part 102 of this chapter.

(c) Articles exported for processing and returned—(1) Applicability to U.S. articles sent abroad. Chapter 98, Subchapter II, Note 2, Harmonized Tariff Schedule of the United States, provides that any product of the U.S. which is returned after having been advanced in value or improved in condition abroad, or assembled abroad, shall be a foreign article for the purposes of the Tariff Act of 1930, as amended. In order to have a single definition of the term “product of” and, therefore, a single country of origin for a textile or textile product, notwithstanding paragraph (b), merchandise which falls within the purview of Chapter 98, Subchapter II, Note 2, Harmonized Tariff Schedule of the United States, may not, upon its return to the U.S., be considered a product of the U.S.

(2) Applicability to U.S. insular possession products processed outside the insular possession. Unless otherwise required by law, the rules of origin applicable to products of the U.S. shall also apply to products of insular possessions of the U.S. Accordingly, notwithstanding paragraph (b) of this section, for purposes of section 204, Agricultural Act of 1996, as amended, products of insular possessions of the U.S., if imported into the U.S. after having been advanced in value, improved in condition, or assembled, outside the insular possessions shall not be treated as products of those insular possessions.

(d) Criteria for determining country of origin. The criteria in paragraphs (d) (1) and (2) of this section shall be considered in determining the country of origin of imported merchandise. These criteria are not exhaustive. One or any combination of criteria may be determinative, and additional factors may be considered. However, the origin of products of Canada and Mexico, and the origin of textile and apparel products covered by §102.21 of this chapter, are determined pursuant to the procedures set forth in part 102 of this chapter.

(1) A new and different article of commerce will usually result from a manufacturing or processing operation if there is a change in:

(i) Commercial designation or identity,

(ii) Fundamental character or

(iii) Commercial use.

(2) In determining whether merchandise has been subjected to substantial manufacturing or processing operations, the following will be considered:

(i) The physical change in the material or article as a result of the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(ii) The time involved in the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(iii) The complexity of the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(iv) The level or degree of skill and/or technology required in the manufacturing or processing operations in each foreign territory or country, or insular possession of the U.S.

(v) The value added to the article or material in each foreign territory or country, or insular possession of the U.S., compared to its value when imported into the U.S.

(e) Manufacturing or processing operations. (1) Except for products of which the origin is Canada or Mexico and except for textile and apparel products (the origin of such products is determined pursuant to the procedures set forth in part 102 of this chapter), an article or material usually will be a product of a particular foreign territory or country, or insular possession of the U.S., when it has undergone prior to importation into the U.S. in that foreign territory or country, or insular possession any of the following:

(i) Dyeing of fabric and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing;

(ii) Spinning fibers into yarn;

(iii) Weaving, knitting or otherwise forming fabric;

(iv) Cutting of fabric into parts and the assembly of those parts into the completed article; or
(v) Substantial assembly by sewing and/or tailoring of all cut pieces of apparel articles which have been cut from fabric in another foreign territory or country, or insular possession, into a completed garment (e.g. the complete assembly and tailoring of all cut pieces of suit-type jackets, suits, and shirts).

(2) An article or material usually will not be considered to be a product of a particular foreign territory or country, or insular possession of the U.S. by virtue of merely having undergone any of the following:

(i) Simple combining operations, labeling, pressing, cleaning or dry cleaning, or packaging operations, or any combination thereof;

(ii) Cutting to length or width and hemming or overlocking fabrics which are readily identifiable as being intended for a particular commercial use;

(iii) Trimming and/or joining together by sewing, looping, linking, or other means of attaching otherwise completed knit-to-shape component parts produced in a single country, even when accompanied by other processes (e.g. washing, drying, mending, etc.) normally incident to the assembly process;

(iv) One or more finishing operations on yarns, fabrics, or other textile articles, such as showerproofing, superwashing, bleaching, decating, fulling, shrinking, mercerizing, or similar operations;

(v) Dyeing and/or printing of fabrics or yarns.

(f) Declaration of manufacturer, producer, exporter, or importer of textiles and textile products. All importations of textiles and textile products subject to section 204, Agricultural Act of 1956, as amended, shall be accompanied by the appropriate declaration(s) set forth in paragraph (f)(1) or (f)(2) of this section. Textiles or textile products subject to section 204 include that merchandise described in §12.130(a). All importations of textiles and textile products not subject to section 204 shall be accompanied by the declaration set forth in paragraph (f)(3) of this section. The declaration(s) shall be filed with the entry. The declaration(s) may be prepared by the manufacturer, producer, exporter, or importer of the textiles and textile products. If multiple manufacturers, producers, or exporters are involved, a separate declaration prepared by each may be filed. A separate declaration may be filed for each invoice which is presented with the entry. The determination of country of origin, other than as set forth in paragraph (g) of this section, will be based upon information contained in the declaration(s). The declaration(s) shall not be treated as a missing document for which a bond may be filed. Entry will be denied unless accompanied by a properly executed declaration(s).

(1) Single foreign territory or country, or U.S. insular possession. Textiles or textile products which are wholly the growth, product, or manufacture of a single foreign territory or country, or insular possession of the U.S., or assembled in a single foreign territory or country, or insular possession of the U.S. of fabricated components which are in whole the product of the U.S. and/or the single foreign territory or country, or insular possession of the U.S. shall be identified in a declaration which is substantially in the following form:

SINGLE COUNTRY DECLARATION

I, __________________ (name), declare that the articles listed below and covered by the invoice or entry to which this declaration relates are wholly the growth, product, or manufacture of a single foreign territory or country, or insular possession of the U.S., or were assembled in the single foreign territory or country, or insular possession of the U.S. of fabricated components which are in whole the product of the U.S. and/or the single foreign territory or country, or insular possession of the U.S. as identified below. I declare, that the information set forth in this declaration is correct and true to the best of my information, knowledge, and belief.

A ........................................... (country*)
B ........................................... (country*)
C ............................................ (country*)
D ........................................... (country*)

Marks of identification, numbers| Description of article and quantity| Country* of origin| Date of exportation
---|---|---|---
| | | | 

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MULTIPLE COUNTRY DECLARATION

I, ___________________ (name), declare that the articles described below and covered by the invoice or entry to which this declaration relates were exported from the country or countries identified below on the dates listed and were subjected to assembling, manufacturing or processing operations in, and/or incorporate materials originating in, the foreign territory or country or countries, or the U.S. or an insular possession of the U.S., identified below. I declare that the information set forth in this declaration is correct and true to the best of my information, knowledge, and belief.

A ___________________ (country*)
B ___________________ (country*)
C ___________________ (country*)
D ___________________ (country*)

etc.

Date
Name
Signature
Title
Company
Address

NEGATIVE DECLARATION

I, ___________________ (name), declare that the articles described below and covered by the invoice or entry to which this declaration relates are not subject to section 204, Agricultural Act of 1956, as amended, (see paragraph (a) of this section for products subject to section 204), shall be accompanied by the declaration set forth below:

Date
Name
Signature
Title
Company
Address
(g) Incomplete or insufficient information. If the port director is unable to determine the country of origin of an article from the information set forth in the declaration, the declarant shall submit such additional information as requested. Release of the article from Customs custody will be denied until the determination is made based upon the information provided or the best information available. In this regard if incomplete or insufficient information is provided, the port director may consider the experience and costs of domestic industry in similar manufacturing or processing operations.

(h) Shipments covered by an informal entry. While a declaration is not required for shipments covered by an informal entry, the port director may require such other evidence of the country of origin as deemed necessary. The filing of the appropriate declaration will be required in a case involving consolidation of individual shipments under §§12.131 and 143.22 of this chapter.

(i) Date of exportation. For quota, visa or export license requirements, and statistical purposes, the date of exportation for textiles or textile products, subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), whether or not the requirements set forth in §12.130 have been met, will be denied entry where the factory, producer or manufacturer named in the entry documents for such textiles or textile products is named in a directive published in the Federal Register by the Committee for the Implementation of Textile Agreements as a company found to be illegally transshipping, closed or unable to produce records to verify production. In these circumstances, no additional information will be accepted or considered by Customs for purposes of determining the admissibility of such textiles or textile products.


§ 12.132 Textile and apparel goods under the North American Free Trade Agreement.

(a) Country of origin declaration. The provisions of §12.130(f) of this part regarding submission of a country of origin declaration shall apply to all textile and apparel goods which are subject to the provisions of Annex 300-B of the North American Free Trade Agreement (NAFTA). Although a separate country of origin declaration shall not be required for such goods for NAFTA purposes, the following additional requirements shall apply for purposes of this section:

(1) All commercial importations of textile and apparel goods shall be accompanied by the appropriate declaration;
(2) A declaration by each U.S., Canadian, and/or Mexican manufacturer or producer of the goods, and, if there are multiple manufacturers or producers, a separate declaration by each manufacturer or producer shall be furnished by the importer. Packaging operations shall not be considered manufacture or production for purposes of this paragraph; and

(3) If the port director is unable to determine the country of origin of the goods because the information contained in the declaration is incomplete, the shipment to which that declaration pertains shall not be entitled to preferential tariff treatment or any other benefit under the NAFTA for which it would otherwise be eligible.

(b) Certificate of eligibility. In connection with a claim for NAFTA preferential tariff treatment involving non-originating textile and apparel goods subject to the tariff preference level provisions of appendix 6.B. to Annex 300-B of the NAFTA and Additional U.S. Notes 3 through 6 to Section XI, Harmonized Tariff Schedule of the United States, the importer shall submit to Customs a Certificate of Eligibility covering the goods. The Certificate of Eligibility shall be properly completed and signed by an authorized official of the Canadian or Mexican government and shall be presented to Customs at the time the claim for preferential tariff treatment is filed under §181.21 of this chapter.

§12.140 Entry of softwood lumber from Canada

The requirements set forth in this section are applicable for as long as the Softwood Lumber Agreement, entered into on May 29, 1996, by the Governments of the United States and Canada, remains in effect.

(a) Encumbrance regarding export permit and export fee. In the case of softwood lumber first manufactured into a product classifiable in subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90, Harmonized Tariff Schedule of the United States (HTSUS), in the Province of Ontario, Quebec, British Columbia, or Alberta, the requirement that the Government of Canada issue an export permit and collect the appropriate export fees under the Softwood Lumber Agreement attaches to and encumbers the product when it is imported into the United States. Such imported merchandise remains subject to the encumbrance until the Government of Canada issues an export permit and collects the appropriate fees. The merchandise shall be released by Customs subject to the following conditions: The importer of record assumes an obligation to ensure within 20 working days of release that such export permit is issued by the Government of Canada and to provide sufficient information to satisfy U.S. Customs that the encumbrance no longer attaches or, if the merchandise remains encumbered at the expiration of 20 working days, to pay any liquidated damages assessed under the Customs bond.

(b) Reporting requirements. Except as otherwise provided in paragraph (d) of this section, in the case of a softwood lumber product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 that is imported from Canada and that was manufactured (that is, subjected to any processing operation other than mere loading, unloading or processing necessary to maintain the condition of the product) in Canada, whether or not such product was previously subjected to any processing operation outside Canada, the following information shall be included on the entry summary, Customs Form 7501, or on an electronic equivalent:

(1) The Canadian province or territory in which the product was first manufactured; and

(2) In the case of a product first manufactured into a product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 in the Province of Ontario, Quebec, British Columbia, or Alberta:

(i) The export permit number issued by the Government of Canada for the product; and

(ii) An indication of the export fee payment status of the product for
which the permit was issued according to the following categories:

(A) Category A: No payment of an export fee because the exported product falls within the base amount of 14.7 billion board feet. This category includes products for which the export permit was issued without an indication of the export fee status;

(B) Category B: Payment of the export fee applicable to a product exported in excess of 14.7 billion board feet but not in excess of 15.35 billion board feet;

(C) Category C: Payment of the export fee applicable to a product exported in excess of 15.35 billion board feet; or

(D) Category D: No payment of an export fee where the product was exported in excess of 14.7 billion board feet because the average price of a benchmark softwood lumber price exceeds a prescribed trigger price during any quarterly period as determined by the Governments of Canada and the United States. If the issued permit pertains to this category, the specific quarterly period shall also be indicated on the Customs Form 7501 or electronic equivalent.

(c) Untimely issuance of export permit.
If an export permit for the product has not been issued by the Government of Canada on or before the required date for filing the entry summary documentation as provided in §142.12(b) or §142.23 of this chapter, the importer shall have a maximum of 10 additional working days to file the entry summary documentation setting forth all of the information specified in paragraph (b)(2) of this section. If an export permit for the product has not been issued by the Government of Canada within the maximum time period specified in this paragraph, the entry summary or electronic equivalent shall be filed on the next business day and shall be completed in pertinent part as follows:

(1) The export permit number field shall be completed by inserting as many nines as are necessary to complete the field; and

(2) The export fee payment status field shall be completed by inserting an "A" followed by two zeros.

(d) Absence of export permit number and fee status data for certain remanufactured softwood lumber products.
In the case of a softwood lumber mill product classifiable in HTSUS subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 that is imported from Canada and that was first manufactured in Canada in the Province of Ontario, Quebec, British Columbia, or Alberta, if no export permit for the product is issued by the Government of Canada because the product was previously subjected to processing operations outside Canada, the entry summary, Customs Form 7501, or an electronic equivalent, shall include the Canadian province or territory in which the product was first manufactured and also shall be completed in pertinent part as follows:

(1) The export permit number field shall be completed by inserting as many eights as are necessary to complete the field; and

(2) The export fee payment status field shall be completed by inserting an "A" followed by two zeros.


**Merchandise Subject to Economic Sanctions**

§ 12.150 Merchandise prohibited by economic sanctions; detention; seizure or other disposition; blocked property.

(a) Generally. Merchandise from certain countries designated by the President as constituting a threat to the national security, foreign policy, or economy of the United States shall be detained until the question of its release, seizure, or other disposition has been determined under law and regulations issued by the Treasury Department's Office of Foreign Assets Control (OFAC) (31 CFR Chapter V).

(b) Seizure. When an unlicensed importation of merchandise subject to OFAC’s regulations is determined to be prohibited, no entry for any purpose shall be permitted and, unless the immediate reexportation or other disposition of such merchandise under Customs supervision has previously been authorized by OFAC, the merchandise shall be seized.
(c) Licenses. OFAC’s regulations may authorize OFAC to issue licenses on a case-by-case basis authorizing the importation of otherwise prohibited merchandise under certain conditions. If such a license is issued subsequent to the attempted entry and seizure of the merchandise, importation shall be conditioned upon the importer:

(1) Agreeing in writing to hold the Government harmless, and
(2) Paying any storage and other Customs fees, costs, or expenses, as well as any mitigated forfeiture amount or monetary penalty imposed or assessed by Customs or OFAC, or both.

(d) Blocked property. Merchandise which constitutes property in which the government or any national of certain designated countries has an interest may be blocked (frozen) pursuant to OFAC’s regulations and may not be transferred, sold, or otherwise disposed of without an OFAC license.

(e) Additional information. For further information concerning importing merchandise prohibited under economic sanctions programs currently in effect, the Office of Foreign Assets Control of the Department of the Treasury should be contacted. The address of that office is 1500 Pennsylvania Ave., NW, Annex 2nd Floor, Washington, DC 20220.


**PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT**

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**AUTHORITY:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623.

Section 18.3 also issued under 19 U.S.C. 1565.
Section 18.4 also issued under 19 U.S.C. 1322, 1323.
Section 18.7 also issued under 19 U.S.C. 1557, 1646a;
Section 18.8 also issued under 19 U.S.C. 1623.
Section 18.10 also issued under 19 U.S.C. 1557.
Section 18.11 also issued under 19 U.S.C. 1494;
Section 18.12 also issued under 19 U.S.C. 1484, 1490;
Section 18.13 also issued under 19 U.S.C. 1498a;