

custody, and upon entry of the merchandise and the satisfaction of all other applicable laws. The bond will be in an amount deemed appropriate by CBP. When a shipment of pesticides or devices is released to the consignee under bond, the pesticides or devices must not be used or otherwise disposed of until the determination on compliance with the requirements of the Act is made by the Administrator.

[CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

#### § 12.116 Samples.

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the port director will 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 will notify the consignee 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, as amended by CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

#### § 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 will 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 will 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 will notify the port director of this opinion and the port director will either (1) refuse delivery to the consignee, or (2) if the shipment has been released to the consignee under bond, demand redelivery of the shipment under the terms of the bond. If the merchandise is not redelivered within 30 days after the date of demand by the port director, the port director will issue a demand for liquidated 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 director will cause the destruction of any merchandise refused delivery to the consignee, or redelivered by the consignee pursuant to a demand therefor, and not exported by the consignee within 90 days after notice of such refusal 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; CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

#### CHEMICAL SUBSTANCES IN BULK AND AS PART OF MIXTURES AND ARTICLES

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

#### § 12.118 Toxic Substances Control Act.

The Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 *et seq.*) governs the importation into the customs territory of the United States of a chemical substance in bulk form or as part of a mixture, and articles containing a chemical substance or mixture. Such importations are also governed by these regulations which are issued under the authority of section 13(b) of TSCA (15 U.S.C. 2612(b)).

[CBP Dec. 16-28, 81 FR 94985, Dec. 27, 2016]

#### § 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of:

- (a) Chemical substances in bulk form and as part of a mixture under TSCA;
- (b) TSCA-excluded chemicals; and