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§ 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 incident to 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.

[T.D. 73-119, 38 FR 10807, May 2, 1973, as amended by T.D. 82-145, 47 FR 35477, Aug. 16, 1982]

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PESTICIDES AND DEVICES

§ 12.110 Definitions.

Except as otherwise provided below, the terms used in §§12.111 through 12.117 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* means the Administrator of the Environmental Protection Agency.

[T.D. 75-194, 40 FR 32321, Aug. 1, 1975, as amended by CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

§ 12.111 Registration.

Certain imported pesticides are required to be registered under the provisions of section 3 of the Act, and under the regulations (40 CFR part 152) 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.

[T.D. 75-194, 40 FR 32321, Aug. 1, 1975, as amended by CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

§ 12.112 Notice of arrival of pesticides and devices.

(a) *General.* An importer or the importer’s agent desiring to import pesticides or devices into the United States must submit to the Administrator, prior to the arrival of the shipment in the United States, a Notice of Arrival of Pesticides and Devices (Notice of Arrival) on U.S. Environmental Protection Agency (EPA) Form 3540-1. The Administrator will complete the Notice of Arrival and provide notification to the importer or the importer’s agent indicating the disposition to be made of a pesticide or device upon its entry into the United States. In the alternative, the importer or the importer’s agent may file an electronic alternative to the Notice of Arrival, with the filing of the entry documentation, via any CBP-authorized electronic data interchange system.

(b) *Chemicals imported for use other than as pesticides.* Chemicals which can be used as pesticides but which are not

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imported for such use and are not shown on the Index of Pesticide Products located in the Environmental Protection Agency's handbook entitled Recognition and Management of Pesticide Poisonings, found at <http://www.epa.gov>, may be entered without the submission of the Notice of Arrival.

[T.D. 75-194, 40 FR 32321, Aug. 1, 1975, as amended by CBP Dec. 10-29, 75 FR 52451, Aug. 26, 2010; CBP Dec. 16-15, 81 FR 67143, Sept. 30, 2016]

§ 12.113 Arrival and entry of shipment of pesticides and devices.

(a) *Notice of Arrival form filed with CBP.* Upon entry of a shipment of pesticides or devices into the United States, and concurrent with the filing of the entry documentation, CBP must be in receipt of a completed Notice of Arrival of Pesticides and Devices (Notice of Arrival) on U.S. Environmental Protection Agency (EPA) Form 3540-1 or its electronic alternative submitted via any CBP-authorized electronic data interchange system. A completed Notice of Arrival must have been signed by the Administrator and indicate any action to be taken by CBP with respect to the shipment. CBP will compare entry information for the shipment of pesticides or devices with the information in the Notice of Arrival and notify the Administrator of any discrepancies.

(b) *EPA Notice of Arrival declaration form not presented.* When a shipment of pesticides or devices arrives and entry is attempted in the United States without a completed Notice of Arrival having been filed with CBP pursuant to paragraph (a) of this section, the shipment will be detained by CBP at the importer's risk and expense until the completed Notice of Arrival is presented to CBP or until other disposition is ordered by the Administrator. Such detention is not to exceed a period of 30-calendar days, or such additional extended 30-calendar day detention period as CBP may for good cause authorize. An importer or its agent may request an extension of the initial 30-calendar day detention period by filing a request with the director of the CBP port of entry.

(c) *Disposition of pesticides or devices remaining under detention.* A shipment

of pesticides or devices that remains detained or undisposed of due to the failure to timely submit to CBP a completed Notice of Arrival will be treated as a prohibited importation. CBP will cause the destruction of any such shipment not exported by the consignee within 90-calendar days after the expiration of the detention period specified or authorized by paragraph (b) of this section.

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

§ 12.114 Release or refusal of delivery.

If the EPA directs the port director to release the shipment of pesticides or devices, the shipment will be released to the consignee. If the EPA directs the port director to refuse delivery of the shipment, the shipment will be refused delivery and treated as a prohibited importation. The port director will cause the destruction of any shipment refused delivery and not exported by the consignee within 90-calendar days after notice of such refusal of delivery.

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

§ 12.115 Release under bond of shipment detained for examination.

If the EPA so directs, a shipment of pesticides or devices will be detained at the importer's risk and 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 CBP Form 301, or its electronic equivalent, containing the bond conditions set forth in § 113.62 of this chapter, for the return of the merchandise to CBP 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]