

## § 12.120

(c) Articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA.

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

### § 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 manufactured item which:

(i) Is formed to a specific shape or design 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); except that fluids and particles are not considered articles regardless of shape or design.

(2) The allowable changes of composition, referred to in §12.120(a)(1), are those which result from a chemical reaction that occurs upon the end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household 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 manufactured for distribution in commerce or for use as an intermediate.

(b) *TSCA chemical substance in bulk form*. “TSCA chemical substance in bulk form” means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) (other than as part of an article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

(c) *TSCA chemical substance as part of a mixture*. “TSCA chemical substance as part of a mixture” means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) that is part of

## 19 CFR Ch. I (4–1–23 Edition)

a combination of two or more chemical substances as set forth in section 3(10) of TSCA.

(d) *TSCA-excluded chemicals*. “TSCA-excluded chemicals” means any chemicals that are excluded from the definition of TSCA chemical substance by section 3(2)(B) (ii)–(vi) of TSCA, (15 U.S.C. 2602(2) (B) (ii)–(vi)) (other than as part of a mixture), regardless of form.

(e) *Covered commodity*. “Covered commodity” means merchandise that meets the terms of one of the definitions specified in paragraph (a), (b), or (d) of this section or that is a mixture as defined in TSCA.

(f) *Administrator*. “Administrator” means the Administrator of the Environmental Protection Agency (EPA).

[T.D. 83-158, 48 FR 34739, Aug. 1, 1983, as amended by CBP Dec. 16-28, 81 FR 94985, Dec. 27, 2016]

### § 12.121 Reporting requirements.

(a) *Certification required*. (1) The importer or the authorized agent of such an importer of a TSCA chemical substance in bulk form or as part of a mixture, must certify in writing or electronically that the chemical shipment complies with all applicable rules and orders under TSCA by filing with CBP the following statement:

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.

(2) The importer or the authorized agent of such an importer of any TSCA-excluded chemical not clearly identified as such must certify in writing or electronically that the chemical shipment is not subject to TSCA by filing with CBP the following statement:

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

(3) *Filing of certification*. (i) The appropriate certification required under paragraph (a) of this section must be filed with the director of the port of entry in writing or electronically to the Automated Commercial Environment (ACE) system or any other CBP-authorized EDI system prior to release of the shipment. For each entry subject

to certification under paragraph (a), the name, phone number, and email address of the certifier (the importer or the importer's authorized agent) shall be included.

(ii) Written certifications 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.

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

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

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

#### § 12.122 Detention of certain shipments.

(a) The director of the port of arrival will detain, at the importer's risk and expense, shipments of covered commodity:

(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 will detain shipments of covered commodity at the importer's risk and expense, in the following situations:

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

(2) Whenever the port director has reasonable grounds to believe that the

shipment is not in compliance with TSCA; or

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

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

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

[T.D. 83-158, 48 FR 34739, Aug. 1, 1983, as amended by CBP Dec. 16-28, 81 FR 94986, Dec. 27, 2016]

#### § 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 will allow or deny entry of the shipment within 10 days of receipt of the documentation, and in any case will 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 will be conditioned upon furnishing a bond on CBP Form 301, containing the conditions set forth in §113.62 of this chapter for the return of