

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

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the shipment to CBP custody. If a shipment of a covered commodity is released to the importer under bond, the shipment will be held intact and will 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 will 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 will release the shipment to the importer. If the Administrator finds that the shipment is not in compliance, the port director will:

(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 will assess liquidated damages in the full amount of the bond.

[T.D. 83-158, 48 FR 34739, Aug. 1, 1983, as amended at CBP Dec. 10-29, 75 FR 52451, Aug. 26, 2010; CBP Dec. 16-28, 81 FR 94986, Dec. 27, 2016]

§ 12.124 Time limitations and extensions.

(a) *Time limitations.* The importer of a shipment of a covered commodity which has been detained under § 12.122 must 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 CBP:

(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 terri-

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tory of the United States within the required time period.

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

§ 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 must submit notice of the exportation either in writing to the port director or electronically to ACE or any other CBP-authorized EDI system. The importer must 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 covered commodity 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.

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

§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer must present a notice of intent to abandon in writing to the port director or electronically to ACE or any other CBP-authorized EDI system. Notification under this section is a waiver of any right to export the merchandise. The importer will remain liable for any expense incurred in the storage and/or disposal of abandoned merchandise.

[CBP Dec. 16-28, 81 FR 94986, Dec. 27, 2016]

§ 12.127 Decision to store or dispose.

A shipment detained under § 12.122 will be considered to be unclaimed or abandoned and will be turned over to the Administrator for storage or disposition as provided for in § 127.28(i) of this chapter if the importer has not brought the shipment into compliance