

**§ 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
- (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