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### **§ 12.110 Definitions.**

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

[T.D. 75–194, 40 FR 32321, Aug. 1, 1975]

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### **§ 12.111 Registration.**

All imported pesticides are required to be registered under the provisions of section 3 of the Act, and under the regulations (40 CFR 162.10) 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]

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#### **§ 12.112 Notice of arrival of pesticides and devices.**

(a) *General.* An importer desiring to import pesticides or devices into the United States shall submit to the Administrator a Notice of Arrival of Pesticides and Devices (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>), hereinafter referred to as a Notice of Arrival, prior to the arrival of the shipment in the United States. The Administrator shall complete the Notice of Arrival, indicating the disposition to be made of the shipment of pesticides or devices upon its arrival in the United States, and shall return the completed Notice of Arrival to the importer or his agent.

(b) *Chemicals imported for use other than as pesticides.* Chemicals which can be used as pesticides but which are not 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 at CBP Dec. 10–29, 75 FR 52451, Aug. 26, 2010]

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### **§ 12.113 Arrival of shipment.**

(a) *Notice of arrival presented.* Upon the arrival of a shipment of pesticides or devices, the importer or his agent shall present to the director of the port of entry the Notice of Arrival completed by the Administrator and indicating the Customs action to be taken with respect to the shipment. The port director shall compare entry documents for the shipment of pesticides or devices with the Notice of Arrival and notify the Administrator of any discrepancies.

(b) *Notice of arrival not presented.* When a shipment of pesticides or devices arrives in the United States without the presentation by the importer or his agent of the Notice of Arrival completed by the Administrator, the shipment shall be detained by the director of the importer's risk and expense until the completed Notice of Arrival is presented or until other disposition is ordered by the Administrator, but not to exceed a period of 30 days, or such extended period, not in excess of 30 additional days, as the port director for good cause may specially authorize. An application of the importer or his agent requesting an extension of the initial 30-day period shall be filed with the director of the port of entry.

(c) *Disposition of pesticides or devices remaining under detention.* A shipment that remains detained or undisposed of due to failure of presentment of a completed Notice of Arrival or nonreceipt of an order of the Administrator as to its disposition shall be treated as a prohibited importation. The port director shall cause the destruction of any such shipment not exported by the consignee within 90 days after the expiration of the detention period specified or authorized pursuant to §12.113(b).

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975]

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### **§ 12.114 Release or refusal of delivery.**

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

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975]

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### **§ 12.115 Release under bond.**

If the completed Notice of Arrival so directs, a shipment of pesticides or devices shall be detained at the importer's 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 Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, for the return of the merchandise to Customs custody. The bond shall be in an amount deemed appropriate by the port director. When a shipment of pesticides or devices is released to the consignee under bond, the shipment shall not be used or otherwise disposed of until the determination is made by the Administrator.

[T.D. 75–194, 40 FR 32322, Aug. 1, 1975, as amended by T.D. 84–213, 49 FR 41168, Oct. 19, 1984]

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### **§ 12.116 Samples.**

Upon the request of the Administrator, either on the completed Notice of Arrival or otherwise, the port director shall 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 shall notify the consignee, in writing, 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]

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#### **§ 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 shall 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 shall 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 shall notify the port director of this opinion and the port director shall 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 shall 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 shall 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]

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