

CBP Pipeline on TSCA Certification Requirements for Chemical Substances

U.S. Customs and Border Protection (CBP) at the Port of Chicago has issued a Pipeline regarding the certification required under the Toxic Substances Control Act (TSCA) for imports of chemical substances in bulk or mixtures.

According to the Pipeline, importers are required to certify that such shipments *either* comply with all applicable TSCA rules and orders, *or* are not subject to TSCA. Subject shipments that do not comply with the rules, orders or civil actions in effect under TSCA may be refused entry into the U.S. Customs territory.

(Among other things, CBP sources state that this Pipeline reflects the following change - that entries are now reviewed for TSCA certifications on a post-entry basis (instead of at the time of entry).)

Procedures for Paper Entries

Certification. The certification should state one of the following:

"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." OR

"I certify that all chemical substances in this shipment are not subject to TSCA."

The certification statements may be signed by means of an authorized facsimile signature.

Blanket certifications. In lieu of filing a separate certification for each chemical shipment, a blanket certification may be used. Approval and use of a blanket certification will be subject to the following conditions:

- A blanket certification must be filed with the port direction on the letterhead of the certifying firm, must list the products covered by name and by U.S. Harmonized Tariff Schedule (HTS) subheading number, must identify the foreign supplier by name and address, and must be signed by an authorized person;
- A blanket certification will remain valid, and may be used, for 1 year from the date of approval unless the approval is revoked earlier for cause by the port director. Separate blanket certifications must be approved and used for chemical substances that are subject to TSCA and for chemical substances that are not subject to TSCA; and
- An importer for whom the use of a blanket certification has been approved must include, on the invoice used in connection with the entry and entry summary procedures for each shipment covered by the blanket certification, a statement referring to the blanket certification and incorporating it by reference. The statement need not be signed.

Procedures for Paperless Entries

For electronic entries filed under the Remote Location Filing (RLF) and Electronic Invoice Processing (EIP) programs, CBP and the Environmental Protection Agency (EPA) will accept the TSCA certification in the transmission of the electronic invoice as meeting the TSCA certification requirement if completed as instructed below (entries filed in paper format shall continue to be required to follow current policy):

RLF and EIP filers will use the automation available in the automated invoice interface to transmit the TSCA certification. For each chemical substance and/or mixture, the EIP and RLF filer will

transmit, at the time of entry, one of the following codes as well as the name of the authorized individual as an electronic signature in the commercial invoice description field of the C35 record:
Code: TSCA+ Positive Certification for shipments subject to TSCA, OR

Code: TSCA- Negative Certification for shipments not subject to TSCA

Entry to be Refused for Non-Compliance with TSCA

Under the statutory mandate of Section 13 of the TSCA, the Secretary of Homeland Security shall refuse entry into U.S. Customs territory to any chemical substance, mixture, or article which fails to comply with any rule, order, or civil action in effect under TSCA.

If TSCA Statement Is Missing or Incorrect CBP Will Order Redelivery, Etc.

During [post-entry] review, should the TSCA statement be found to be missing or incorrect, CBP will order redelivery, initiate a 592 penalty case citing 15 USC 2601 and 15 USC 2612 against the filer, and notify the local EPA office of the violation. Additional liquidation damages will be initiated should the importer fail to redeliver.

The Pipeline states that importers requiring more information on the applicability of TSCA regulations to their commodities may contact the EPA through the TSCA Hotline at (202) 554-1404, or email the EPA at tsc-hotline@epa.gov.