

### § 12.3

consultation with the Administrator of the Environmental Protection Agency, as set forth below (§12.110 *et seq.*).

(c) *Federal Hazardous Substances Act.* The importation of hazardous substances, misbranded hazardous substances, or banned hazardous substances as defined in section 2 of the Federal Hazardous Substances Act, as amended (15 U.S.C. 1261), is governed by regulations issued under the authority of sections 10(b) and 14 of the Act, as amended (15 U.S.C. 1269, 1273), by the Consumer Product Safety Commission (16 CFR 1500.265 through 1500.272).

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968, as amended by T.D. 75-194, 40 FR 32321, Aug. 1, 1975; T.D. 82-145, 47 FR 35475, Aug. 16, 1982; CBP Dec. 10-29, 75 FR 52450, Aug. 26, 2010]

#### § 12.3 Release under bond; liquidated damages.

(a) *Release.* No food, drug, device, cosmetic, tobacco product, pesticide, hazardous substance or dangerous caustic or corrosive substance that is the subject of §12.1 will be released except in accordance with the laws and regulations applicable to the merchandise. When any merchandise that is the subject of §12.1 is to be released under bond pursuant to regulations applicable to that merchandise, a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, will be required.

(b) *Bond amount.* The bond referred to in paragraph (a) of this section must be in a specific amount prescribed by the port director based on the circumstances of the particular case that is either:

(1) Equal to the domestic value (see §162.43(a) of this chapter) of the merchandise at the time of release as if the merchandise were admissible and otherwise in compliance; or

(2) Equal to three times the value of the merchandise as provided in §113.62(m)(1) of this chapter.

(c) *Liquidated damages.* Whenever liquidated damages arise with regard to any food, drug, device or cosmetic subject to §12.1(a) for failure to redeliver merchandise into Customs custody or for failure to rectify any noncompliance with the applicable provisions of admission, including the failure to export or destroy the merchandise within

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the time period prescribed by law after the merchandise has been refused admission pursuant to the provisions of the Food, Drug and Cosmetic Act, those liquidated damages will be assessed pursuant to §113.62(m)(1) of this chapter in the amount of the bond prescribed under paragraph (b) of this section.

[T.D. 01-26, 66 FR 16853, Mar. 28, 2001; CBP Dec. 08-46, 73 FR 71780, Nov. 25, 2008; CBP Dec. 10-29, 75 FR 52451, Aug. 26, 2010]

#### § 12.4 Exportation.

The exportation of merchandise, the subject of §12.1, refused admission to the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§18.25 and 18.26 of this chapter.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

#### § 12.5 Shipment to other ports.

When imported merchandise, the subject of §12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier's manifest, Customs Form 7512, in the same manner as shipments in bond.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

#### IMPORTATION OF CERTAIN CHEESES

#### § 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by:

(1) An affidavit, or its electronic equivalent, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No. 11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, or its electronic equivalent, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in Puerto