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September 28, 2016

R. Gil Kerlikowske  
Commissioner  
U.S. Customs and Border Protection  
90 K Street, NE  
Washington, DC 20229-1177

**Attention: Docket ID Number USCBP-2016-0056**

*Submitted to the Federal eRulemaking Portal ([www.regulations.gov](http://www.regulations.gov))*

**Re: Toxic Substances Control Act Chemical Substance Import Certification Process Revisions**

Dear Commissioner Kerlikowske:

The American Fuel & Petrochemical Manufacturers (AFPM) respectfully submits the attached comments on the U.S. Customs and Border Protection's (CBP) "Toxic Substances Control Act Chemical Substance Import Certification Process Revisions" at 81 FR 167 (August 29, 2016).

AFPM is a national trade association representing nearly 400 companies that encompass virtually all U.S. refining and petrochemical manufacturing capacity. AFPM refining and petrochemical member companies are subject to the Toxic Substances Control Act (TSCA) and will be directly impacted as CBP modernizes the TSCA import certification process.

AFPM supports CBP's efforts to modernize the TSCA import certification process and appreciates the opportunity that allowed AFPM member companies to use and test the electronic reporting system in advance of the proposed rule. AFPM stands ready to work with CBP as it finalizes these revisions, per our comments outlined below.

Sincerely,

Melissa Hockstad  
Vice President, Petrochemicals

**AFPM Comments on the Proposed Rule -  
“Toxic Substances Control Act Chemical  
Substance Import Certification Process  
Revisions”**

**September 28, 2016**

**Docket ID No. USCBP-2016-0056**

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## COMMENTS BY TOPIC

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### GENERAL COMMENTS

AFPM supports CBP's efforts to modernize the TSCA import certification process. In particular, AFPM strongly supports the ability to submit certifications electronically through the Automated Commercial Environment (ACE) system or any other CBP-authorized electronic data interface (EDI) system. AFPM also appreciates that its member companies were afforded the opportunity to test the electronic reporting system prior to this proposed rule.

Currently, 19 CFR part 12 does not include an exemption from the negative certification requirement for chemical substances that are clearly identified as not subject to TSCA. CBP is asking whether such an exemption is appropriate. AFPM supports such an exemption and believes it to be appropriate because it achieves objectives found in the Paperwork Reduction Act and other burden-reduction initiatives.

The following comments are organized by the proposed amendments as outlined in 81 FR 167.

#### **1.0 § 12.118 TOXIC SUBSTANCES CONTROL ACT.**

##### **1.1 AFPM supports the proposed changes to § 12.118.**

#### **2.0 § 12.119 SCOPE.**

##### **2.1 AFPM supports the proposed changes to § 12.119.**

#### **3.0 § 12.120 DEFINITIONS**

##### **3.1 AFPM supports the proposed changes to § 12.120.**

#### **4.0 § 12.121 REPORTING REQUIREMENTS**

##### **4.1 AFPM supports the proposed changes to § 12.121.**

CBP has developed and piloted an electronic reporting system through ACE. AFPM supports the option for electronic notification and urges CBP to afford flexibility in the type of system that can be used. In cases where ports do not have an electronic option, AFPM urges CBP to provide full guidance on alternatives for TSCA certification.

AFPM also supports limiting the requirements on reporting of articles to those that are subject to a rule or order issued under TSCA.

To the extent that the electronic system replaces certain existing elements in certifying imports, we have concerns regarding the elimination of the "blanket certification" as outlined under 19 CFR 12.121(a)(2)(ii). The blanket certification exists to cover several shipments of the same chemical over a one-year period, providing a significant reduction in administrative burden for AFPM membership that regularly and frequently import feedstocks such as crude oil or other petroleum intermediates for processing into transportation fuels and chemical products. The blanket certification allows the same material to be imported without the burden involved in certifying each individual shipment. CBP has neither clearly delineated how the proposed electronic certification system will provide similar functionality, nor how the proposed system could preserve this simplifying element without the blanket certification, leading us to

believe such a process will no longer exist. Indeed, CBP states several reasons<sup>1</sup> for eliminating the blanket certification, including the claims it “has limited utility because each blanket certification is only valid at one port of entry and is only valid for one year.” Lacking an equivalent certifying methodology in the electronic system, we disagree with CBP’s assertion that elimination of the blanket certification process will reduce the reporting burden for importers.

We strongly urge CBP to either keep the existing blanket certification process, or alternatively, develop an equivalent electronic certifying methodology for those importers who routinely import the same chemical substance. To the extent that CBP intends the proposed electronic system to retain this functionality, we urge CBP to provide clarity around how the proposed system will accomplish this while reducing reporting burdens. Further, where electronic reporting is unavailable, the existing blanket certification process should continue to be available so as to minimize disruptions in commerce.

**5.0 § 12.122**

**5.1 AFPM supports the proposed changes to § 12.122.**

**6.0 § 12.123**

**6.1 AFPM supports the proposed changes to § 12.123.**

**7.0 § 12.124**

**7.1 AFPM supports the proposed changes to § 12.124.**

**8.0 § 12.125 NOTICE OF EXPORTATION.**

**8.1 AFPM supports the proposed changes to § 12.125.**

**9.0 § 12.126 NOTICE OF ABANDONMENT**

**9.1 AFPM supports the proposed changes to § 12.126.**

**10.0 § 12.127 DECISION TO STORE OR DISPOSE**

**10.1 AFPM supports the proposed changes to § 12.127.**

**11.0 PART 127 – GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE**

**11.1 AFPM supports the proposed changes to Part 127.**

**12.0 § 127.28 SPECIAL MERCHANDISE**

**12.1 AFPM supports the proposed changes to § 127.28.**

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<sup>1</sup> Federal Register /Vol. 81, No. 167 /Monday, August 29, 2016, Page 59159

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