

*What Every Member of the  
Trade Community Should Know About:*

# **Recordkeeping**



**AN INFORMED COMPLIANCE PUBLICATION**

**JANUARY 2005**

**U.S. CUSTOMS and BORDER PROTECTION**

**NOTICE:**

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the International Trade and Compliance Division, ORR, explains the recordkeeping and related regulations. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

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# RECORDS AND RECORDKEEPING REQUIREMENTS

## I. BACKGROUND AND INTRODUCTION

The records of carriers and importers relating to the importation of merchandise have been subject to U.S. Customs and Border Protection (CBP) inspection or examination since the beginning of the Federal government. Sections 10 and 11 of the act of July 31, 1789 required masters of vessels arriving in the United States to provide two copies of their manifests to CBP officers. These manifests were required to have a “true account of the loading which such ship or vessel had on board at the port from which she last sailed” together with marks and numbers, the ports to which they were bound and the persons to whom they were consigned. Penalties were provided for refusal or neglect in making entry or providing the manifests. Section 13 of the same act required an owner or consignee of imported goods to file an entry for his merchandise and provide CBP officers with original invoices and bills of lading and an oath stating that the price and quantity information contained on those documents was to the best of his knowledge and belief accurate. If a person filing an entry later found the information to be incorrect, he had to report it and file a corrected entry. The entry was authenticated by the collector and countersigned by the naval officer. Only after these formalities were complied with, and duties paid (or guaranteed) was a permit to unlade the goods granted. If the invoice was found to be fraudulent, the goods or their value were forfeited.

The accuracy of import (and export) information is important not only because it affects the revenue, but because accurate trade information and statistics are important in determining trade policy, the future eligibility of certain goods or goods from certain countries for special programs, the impact of imports on domestic industries, and the effectiveness of various trade agreements and programs. So important was accuracy, that even as early as 1818 certain invoices covering goods subject to *ad valorem* duties had to be certified under oath before a collector or U.S. Consul abroad.

Over the years, as valuation, classification and admissibility laws changed, so did the invoicing, recordkeeping requirements, and examination authority. Originally, all goods were examined and all required records were provided to CBP at the time of entry. As merchandise descriptions and transactions became more complex, classification and valuation laws changed and it became necessary for CBP officers to review records other than the invoice to determine the correct customs classification and value. The earliest laws allowing post-entry compulsory production of documents to, or examination by, CBP officers were primarily concerned with valuation issues.

Section 8 of the Act of July 14, 1832 authorized appraisers to examine any person under oath on “*any matter or thing which they may deem material in ascertaining the true value of any merchandise imported, and to require the production ... of any letters, accounts, or invoices, in his possession relating to the same....*” Section 17, Act of August 30, 1842 (later codified as §§2922-2924, Revised Statutes) extended this examination authority to collectors and naval officers, and expanded the statute to cover

wholesale value as well as market value. If a person neglected or refused to appear, or refused to subscribe to the oath or produce the required documents, he was subject to a monetary penalty and if the cited party was the owner, importer, or consignee, the customs appraisal became final and conclusive. A person who willfully gave false testimony was guilty of perjury and if he was the owner, importer or consignee, the goods were forfeited. There were additional criminal penalties for using false or fraudulent invoices to pass goods through CBP.

By the Civil War, frauds on the revenue were so common that Congress enacted the Act of March 3, 1863 entitled "*An act to prevent and punish frauds on the revenue, to provide for the more certain and speedy collections of claims in favor of the United States, and for other purposes,*" which mandated certified triplicate invoices showing all charges. Section 7 of this act authorized the collector to obtain a judicial search warrant authorizing the search for, and seizure of, any invoices, books, or papers relating to actual or attempted frauds on the revenue. Willful concealment or destruction of these records could result in criminal sanctions.

Section 5 of the Act of June 22, 1874, (now codified as 19 U.S.C. §535) authorized courts to order the compulsory production of books, invoices and papers in civil proceedings under the revenue laws. If a defendant or claimant failed or refused to produce the demanded records, the government's allegations were taken as confessed until the records' absence was explained to the satisfaction of the court.

In 1890, the customs laws were amended to permit CBP officers to order the compulsory production and examination of records related to classification, as well as valuation.

From 1890 and until 1978, the customs laws (including sections 509-511 of the Tariff Act of 1930, 19 U.S.C. §§1509-1511) authorized CBP officers to inspect an importer's "books, papers, records, accounts documents, or correspondence pertaining to the value or classification" of his imported merchandise. If the importer failed to permit the inspection, his importations could be prohibited and delivery withheld. If the refusal continued for a year, the merchandise could be sold at auction. In addition, CBP officers could issue citations for "any owner, consignee, agent, or other person" to appear before them and be examined under oath "upon any matter or thing which they...may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof, or the rate or amount of duty;" and they were authorized to "require the production of any letters, accounts, contracts, invoices or other documents relating to said merchandise" and to take testimony which could be used in subsequent court proceedings. If an individual refused to appear, declined to answer, or refused to



produce the demanded papers, relatively small monetary penalties could be imposed and the last official appraisal became final and conclusive. If false testimony was given the person was deemed guilty of perjury and his goods, or their value could be forfeited.

As more laws creating import restrictions and prohibitions were enacted, admissibility or compliance determinations (involving, to name a few, quotas, embargoes, and various provisions affecting health, safety, the environment, or intellectual property rights) became more complex. As the volume of imports increased, fewer shipments were examined at the time of entry and more reliance was placed on post-entry review and audits to ensure the accuracy of information provided to CBP and compliance with the customs laws.

The Customs Procedural Reform Act of 1978 amended sections 509-510 and added a new section 508 (19 U.S.C. §1508) which required an owner, importer, consignee, or agent thereof who imports, or who knowingly causes an importation of merchandise to “make, keep and render for examination and inspection such records (including statements, declarations, and other documents)” which pertain to the importation, or to the information contained in the documents required by the Tariff Act in connection with the entry of merchandise and “are normally kept in the ordinary course of business.” Under amended section 509 (19 U.S.C. §1509) review of the mandated records was not limited to classification or value issues. CBP officers were given specific examination and administrative summons authority for inquiries or investigations conducted for the purpose of:

- ascertaining the correctness of any entry;
- determining the liability of any person for duties and taxes;
- determining the liability of any person for fines, penalties, and forfeitures; or
- ensuring compliance with the laws of the United States administered by CBP.

The 1978 law also established special procedures for certain “third party recordkeepers” (customs brokers, accountants or attorneys who were not the party liable for duties and taxes) and expanded the contempt authority of district courts in summons enforcement proceedings.

On December 8, 1993, the President signed into law the North American Free Trade Agreement (NAFTA) Implementation Act (Pub. L. 103-182). Sections 205 and 614-616 of this act amended many of the recordkeeping requirements contained in sections 508-510 (19 U.S.C. §§1508-1510) by: expanding the parties subject to recordkeeping requirements; including electronically generated or machine readable data in the definition of “records;” and granting the courts authority to impose monetary penalties in summons enforcement proceedings.

Sections 614-616 are part of Title VI of the NAFTA Implementation Act which contained many provisions pertaining to customs modernization and is commonly referred to as the "Mod Act." The Mod Act amended various provisions of customs laws to facilitate the entry process by granting to CBP the authority not to require the presentation of certain documentation or information at the time of entry. However, in exchange for not requiring the presentation of documents at the time of entry, and in order to not jeopardize the ability of CBP to obtain records at a later date, section 615 of the Mod Act amended section 509 of the Tariff Act to set forth special recordkeeping and production requirements for certain entry records identified by CBP in the "(a)(1)(A) list" (named after the paragraph of section 509 which specifically refers to such records), including administrative penalties for the failure to maintain or produce such records when demanded by CBP. In order to implement these provisions and related provisions pertaining to regulatory audit procedures, CBP revised its implementing regulations (previously found in Part 162 of the CBP Regulations, 19 CFR Part 162) and issued them, after public comment, as new Part 163 (19 CFR Part 163). In addition, certain recordkeeping provisions contained in other parts were also revised.

This informed compliance publication explains the revised recordkeeping and related regulations. Every effort has been made to be as accurate as possible. However, in case of variances between this publication and the CBP Regulations, the CBP Regulations are controlling. All reference to "Parts" are to Parts of the CBP Regulations (CBPR) which are codified in title 19, Code of Federal Regulations (19 CFR).

## **II. RECORDKEEPING REQUIREMENTS**

### **A. WHAT ARE RECORDS?**

In Part 163, the term "records" means any information made or normally kept in the ordinary course of business which pertains to the following activities:

- any importation, declaration or entry;
- the transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;
- the filing of a drawback claim;
- the completion and signature of a NAFTA export Certificate of Origin pursuant to Part 181;
- the collection and payment of fees and taxes to CBP; and

- any other activity required to be undertaken pursuant to laws or regulations administered by CBP.

The term “records” includes any information required for the entry of merchandise (see discussion of the “(a)(1)(A) list” below) and other information pertaining to, or from which is derived, any information element set forth in a collection of information required by the Tariff Act of 1930, as amended, in connection with an activity described above. The term includes, but is not limited to:

- statements, declarations, documents;
- electronically generated or machine readable data;
- electronically stored or transmitted information or data;
- books, papers, correspondence;
- accounts, financial accounting data;
- technical data; and
- computer programs necessary to retrieve information in a usable form

## **B. WHAT ARE ENTRY RECORDS AND THE §(a)(1)(A) LIST?”**

The term “entry records” refers to records (including data elements) required by law or regulation for the entry of merchandise. Prior to passage of the Mod Act, these records were either attached to paper entry packages or electronically transmitted to CBP as part of the entry process. Although they were required by law or regulation, CBP officers could, on occasion, waive presentation (but not retention) of these records at the time of entry. Some members of the importing community mistakenly believed that entry records whose presentation at the time of entry was waived, no longer had to be maintained for post-entry audits or investigations.

The Mod Act clarified the matter by requiring CBP to compile a list of all the records required by law or regulation for the entry of merchandise and then publish the list. This list is commonly referred to as the “(a)(1)(A) list” because its compilation and publication are mandated by section 509(a)(1)(A) of the Tariff Act (19 U.S.C. §1509(a)(1)(A)). If a record is on the “(a)(1)(A) list,” it is required to be maintained, and produced upon demand. Failure to maintain or produce entry records may result in the imposition of substantial penalties and possible reliquidation of entries. (See discussion below).

The “(a)(1)(A) list” does not create any new requirements. It is merely a list of existing requirements. It is set forth as an appendix to Part 163 and this publication.

## C. WHO IS SUBJECT TO RECORDKEEPING REQUIREMENTS?

In general, the following persons are required to maintain records and make them available for examination by CBP:

- an owner, importer, consignee, importer of record, entry filer or other person who:
- imports merchandise into the customs territory of the United States;
- files a drawback claim;
- transports or stores merchandise carried or held under bond; or
- knowingly cause the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;
- an agent of any person described above; or
- a person whose activities require the filing of a declaration or entry, or both.

However, a traveler who has physically cleared the CBP facility after making a baggage declaration or oral declaration upon arrival in the United States, is not required to maintain supporting records regarding non-commercial merchandise acquired abroad which falls within the traveler's personal exemptions or which is covered by a flat rate of duty.

A person who orders merchandise from an importer in a domestic transaction knowingly causes merchandise to be imported (and thus is required to maintain and produce records) **only** if the person ordering the merchandise a) controls the terms and conditions of the importation, **or** b) furnishes technical data, molds, equipment, other production assistance, material, components, or parts with knowledge that they will be used in the manufacture or production of the imported merchandise.

**Examples:** A person who purchases an imported automobile from a dealer within the United States generally would not be subject to CBP recordkeeping requirements. However, a transit authority which prepared detailed technical specifications from which imported subway cars were manufactured would be subject to the recordkeeping requirements.

In addition to the persons listed above who are subject to the general recordkeeping requirements in Part 163, the following persons are subject to special recordkeeping requirements:

- any person who completes and signs a Certificate of Origin for goods exported to Canada or Mexico pursuant to NAFTA must also maintain records in accordance with Part 181; and

- customs brokers must also comply with the additional requirements of Part 111.

#### **D. HOW LONG MUST RECORDS BE KEPT?**

As a general rule, any record required to be made, kept and rendered for examination or inspection under Part 163 must be kept for 5 years from the date of entry (which includes a reconciliation), if the record relates to an entry, or 5 years from the date of the activity which required creation of the record. There are some exceptions to this general rule, however:

- records relating to drawback claim must be retained until the third anniversary of the date of payment of the claim;
- packing lists must be retained for a period of 60 calendar days from the end of the release or conditional release period, whichever is later, or, if demand for return to CBP custody (“redelivery”) has been issued, for a period of 60 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place;
- a consignee who is not the owner or purchaser and who appoints a customs broker shall keep records pertaining to merchandise covered by an informal entry for 2 years from the date of the informal entry;
- records pertaining to articles that are admitted free of duty and tax pursuant to 19 U.S.C. §1321(a)(2) and 19 CFR 10.151-10.153 and carriers’ records pertaining to manifested cargo that is exempt from entry under the provisions of 19 CFR shall be kept for 2 years from the date of entry or other activity which required creation of the record; or
- if another provision of the CBP Regulations sets forth a different retention period for a specific type of record, the other provision controls. For example:
- 10.137 sets forth a retention period of 3 years from liquidation for records of use or disposition for certain goods whose rate of duty is dependent upon actual use; and
- 181.12 requires that all supporting records relating to NAFTA Certificates of Origin for exports be maintained for 5 years from the date the certificate was signed.

#### **E. MUST ORIGINAL RECORDS BE KEPT?**

Unless a recordkeeper has adopted alternative storage methods pursuant to section 163.5, of the CBP Regulations, the recordkeeper must maintain the original records, whether paper or electronic. Even if proper alternative storage methods have

been adopted, certain records must be kept in their original format for a limited time, or may not be alternatively stored at all:

- except in the case of packing lists, entry records must be maintained in their original format for a period of 120 calendar days from the end of the release or conditional release period, whichever is later, or, if demand for return to CBP custody (“redelivery”) has been issued, for a period of 120 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place; and
- records required by other Federal agencies are subject to their record retention requirements.

Whether records are kept in their original format or under an alternative method of storage, they must be capable of being retrieved upon lawful request or demand by CBP.

## **F. WHAT ARE THE REQUIREMENTS FOR ALTERNATIVE METHODS OF STORAGE?**

A recordkeeper may use an alternative storage method by providing advance written notification to the Director, Regulatory Audit Division, U.S. Customs and Border Protection, 2001 Cross Beam Drive, Charlotte, North Carolina 28217-2856. The notice must specify the storage method to be used and state that it complies with the standards set forth in section 163.5. Methods that are in compliance with generally accepted business standards will generally satisfy CBP requirements, provided that the method allows for retrieval of requested records within a reasonable time after the request and adequate safeguards are in place to prevent alteration, destruction or deterioration of the records. Common alternative methods include, but are not limited to, machine readable data, CD-ROM, and microfiche. If an alternative storage method covers records that pertain to goods under CBP seizure or detention or that relate to a matter that is currently the subject of an inquiry or investigation or administrative or court proceeding, the appropriate CBP office may instruct the person in writing that those records must be maintained as original records and therefore may not be converted to an alternative format until specific written authorization is received from that office. Any such instruction must describe the records with reasonable specificity but need not identify the underlying basis for the instruction and will not preclude application of the planned alternative storage method to other records.

In order to use an alternative storage method, a recordkeeper must meet the following standards:

- operational and written procedures are in place to ensure that the imaging and/or other media storage process preserves the integrity, readability, and security of the information contained in the original records;
- the procedures must include a standardized retrieval process;
- vendor specifications/documentation and benchmark data must be available for CBP review;
- there must be an effective labeling, naming, filing, and indexing system;
- internal testing of the system must be performed on a yearly basis;
- the recordkeeper must have the capability to make, and bear the cost of, hard-copy reproductions of alternatively stored records required by CBP;
- the recordkeeper must keep one working copy and one back-up copy of the records in a secure location for the required record retention period;
- entry records must be maintained in their original formats for a period of 120 calendar days from the end of the release or conditional release period, whichever is later, or, if demand for return to CBP custody (“redelivery”) has been issued, for a period of 120 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place; and
- CBP must be notified in writing at least 30 calendar days before implementing any change to the alternative storage procedures

A failure to meet the requirements may result in the recordkeeper being notified by CBP that alternative storage is not permitted.

### **III. PRODUCTION, INSPECTION AND EXAMINATION**

#### **A. PRODUCTION OF ENTRY (“(a)(1)(A)”) RECORDS**

CBP officers may require the production of entry records by any recordkeeper required to maintain such records, pursuant to written, oral or electronic notice, even if the entry records were required at the time of entry. An oral demand for entry records must be followed by a written or electronic request. The entry records must be produced within 30 calendar days of receipt of the demand or within any shorter period prescribed by CBP when the records are required in connection with a determination of admissibility or release of the merchandise. If a recordkeeper encounters a problem in timely complying with the demand, he should notify CBP in writing or electronically, before the expiration of the production period, with a request for approval of a specific additional time in which to produce the records. The recordkeeper must include an explanation for the inability to comply. CBP will promptly advise the requesting party either that the request is denied or that the additional time requested, or a shorter period deemed appropriate by CBP, is approved. A request for additional time does not preclude the imposition of penalties or other sanctions, but no such sanctions will be

imposed if the request is approved and the records produced before expiration the additional time granted by CBP.

## **B. WHAT IF ENTRY RECORDS ARE NOT PRODUCED?**

If a recordkeeper fails to produce an entry record upon lawful demand, the consequences can be severe.

- if the failure is the result of a willful failure to maintain, store or retrieve a demanded record, CBP may assess an administrative penalty for *each release* of merchandise, not to exceed \$100,000 or an amount equal to 75% of the appraised value of the merchandise, whichever is less; or
- if the failure is the result of a negligent failure to maintain, store or retrieve a demanded record, CBP may assess an administrative penalty for *each release* of merchandise, not to exceed \$10,000 or an amount equal to 40% of the appraised value of the merchandise, whichever is less; and
- in addition, if the demanded record relates to eligibility for an HTSUS column 1 special rate of duty, the entry
- if unliquidated, shall be liquidated at the HTSUS column 1 general rate (or column 2 rate, if applicable); or
- if liquidated within the 2-year period preceding the date of demand, shall be reliquidated at the HTSUS column 1 general rate (or column 2 rate, if applicable) notwithstanding the time limits in 19 U.S.C. §1514 or §1520.

Penalties cannot be assessed if the person who fails to comply with a lawful demand can show:

- that the loss of the demanded record was the result of an act of God or other natural casualty or disaster beyond the fault of such person or his agent;
- on the basis of other evidence satisfactory to CBP, that the demand was substantially complied with;
- that the record demanded was presented to *and retained by* CBP at the time of entry, or pursuant to an earlier demand; or
- that he is a certified participant in the Recordkeeping Compliance Program (see below), that he is generally in compliance with the appropriate procedures and that the violation in question is his first violation and was non-willful.

The penalties for failure to maintain or produce entry records are in addition to any other penalty except for:



- a penalty under 19 U.S.C. §1592 for a material omission of any information in the demanded record; or
- disciplinary action taken under 19 U.S.C. §1641.

Penalties assessed for recordkeeping violations must take into account the degree of compliance compared to the total number of importations, the nature of the demanded records and the recordkeeper's cooperation. Any administrative penalty assessed under the recordkeeping provisions may be remitted or mitigated pursuant to 19 U.S.C. §1618.

### **C. GENERAL EXAMINATION AUTHORITY**

CBP officers may examine any relevant entry or other records if CBP initiates an inquiry, compliance assessment, audit or investigation for any of these purposes:

- ascertaining the correctness of any entry;
- determining the liability of any person for duties, taxes, and fees due or which may be due;
- determining the liability of any person for fines, penalties, and forfeitures; or
- ensuring compliance with the laws of the United States administered or enforced by CBP.

These examinations occur during normal business hours, and to the extent possible, at mutually convenient times, after providing the person responsible for such records reasonable written, oral, or electronic notice, which describes the records to be examined with reasonable specificity. In addition to, or in lieu of the examination notice, CBP may issue a summons. (See below).

### **D. SUMMONS AUTHORITY**

During the course of any inquiry, compliance assessment, audit or investigation, for any of the purposes listed above in III. C, the Commissioner of CBP or designated officers (not below the rank of port director, or field director of regulatory audit) may issue a summons requiring a person to appear within a reasonable time before the appropriate CBP officer and produce records, or give relevant testimony under oath, or both.

The summons may be issued to any person who:

- imported, or knowingly caused to be imported merchandise into the customs territory of the United States;

- exported merchandise, or knowingly caused merchandise to be exported to a NAFTA country;
  - transported or stored merchandise that was or is carried or held under bond, or knowingly caused such transportation or storage;
  - filed a declaration, entry, or drawback claim;
  - is an officer, employee, or agent of any person identified above;
  - has possession, custody or care of records relating to an activity identified above; or
- 
- CBP otherwise may deem proper.

If the summons compels the appearance of a person, it will state the name, title, and phone number before whom the appearance is to take place and the scheduled time and place (not to exceed 100 miles from where the summons is served) of the appearance. It will also state the name, address, and phone number of the issuing officer. If the summons requires the production of records, it will also describe the records in question with reasonable specificity.

Any CBP officer designated in the summons may serve it by personal delivery to a natural person. A CBP officer may serve a corporation, partnership or other unincorporated association subject to suit under a common name by delivery to an officer, managing or general agent, or an agent authorized by appointment or law to receive service of process. If CBP has to go to court to enforce the summons, the certificate of service signed by the person serving it is *prima facie* evidence of the facts it states.

## **E. SUMMONS TO THIRD PARTY RECORDKEEPERS**

A third party recordkeeper is an attorney, an accountant, or a customs broker other than a customs broker who is the importer of record. If a summons issued to a third party recordkeeper requires the production of, or the giving of testimony relating to, records pertaining to transactions of any other person identified in the description of records contained in the summons, notice of the summons generally must also be provided to the person so identified in the summons not less than 10 business days before the date set in the summons for the production of records or giving of testimony. The notice shall include a copy of the summons and information on how to stay (delay) compliance. The notice may be served in the same manner as a summons, or by certified or registered mail to the last known address of the person entitled to notice. If notice is required, no examination of records may take place before the date for records production fixed in the summons.

Compliance with the summons may be stayed if the person receiving notice gives written directions to the third party recordkeeper to not comply with the summons and sends a copy of those directions and a copy of the summons by registered or certified mail to the person summoned and to the officer who issued the summons not later than the day before the day fixed in the summons for producing the records or giving the testimony. If a stay of compliance is properly issued by the person entitled to notice, no examination of records may take place except with the consent of the person who stayed compliance or by order of a U. S. district court.

Third party notice and stay procedures do not apply if:

- the summons is served on the person (or an officer or employee of the person) with respect to whose liability for duties, fees, and taxes the summons is issued;
- the summons is issued to determine whether or not records of transactions of an identified person have been made or kept; or
- a U. S. district court determines upon petition by the issuing CBP officer that reasonable cause exists to believe that giving notice may lead to an attempt to:
  - conceal, destroy, or alter relevant records;
  - prevent the communication of information from other persons through intimidation, bribery or collusion; or
  - flee to avoid prosecution, testifying, or production of records.

## **F. SUMMONS ENFORCEMENT AND PENALTIES**

When a person does not comply with a CBP summons, the issuing officer may request that the appropriate U.S. attorney seek an order requiring compliance from the U. S. district court for the district in which the person is found, or resides, or is doing business. A person who is entitled to notice of a third party summons may intervene.

If the court agrees with the government, it will order the person who was served with the summons to comply with the summons. If a person fails to comply with the court's order, he may be found to be in contempt and assessed a monetary penalty in addition to other court sanctions. As long as the person remains in contempt, the Commissioner of CBP, with the approval of the Secretary of Homeland Security, may prohibit importation of merchandise by that person, directly or indirectly, or for that person's account; and may withhold delivery of merchandise imported by that person, directly or indirectly, or for that person's account. If the person remains in contempt for more than one year after the Commissioner issues instructions withholding delivery, the merchandise shall be considered abandoned and shall be sold at public auction or otherwise disposed of in accordance with law.

## IV. RECORDKEEPING COMPLIANCE PROGRAM

The Recordkeeping Compliance Program is a voluntary program established by law under which “certified” recordkeepers are eligible for alternatives to first time penalties for failing to maintain or produce entry records and may be entitled to greater mitigation of subsequent penalties for failing to maintain or produce entry records.

Any person required to maintain and produce entry records may apply for certification by filing an application, in accordance with the guidelines set forth in the *Recordkeeping Compliance Handbook*, with the Field Director, Regulatory Audit, U. S. Customs and Border Protection, 2001 Cross Beam Drive, Charlotte, North Carolina 28217-2856. The *Recordkeeping Compliance Handbook* may be downloaded from the Customs and Border Protection, Office of Strategic Trade, Regulatory Audit web site located at: [http://www.cbp.gov/xp/cgov/import/regulatory\\_audit\\_program](http://www.cbp.gov/xp/cgov/import/regulatory_audit_program)

In order to be certified, an applicant must be in compliance with CBP laws and regulations and meet the general recordkeeping requirements or negotiate an alternative program with CBP tailored to the specific needs of the recordkeeper and CBP. In general, the applicant must be able to demonstrate that it:

- understands the legal requirements for recordkeeping, including the nature of the records to be maintained and produced and the time periods relating thereto;
  - has procedures in place to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance and production of required records;
  - has procedures in place regarding the preparation and maintenance of required records, and the production of such records to CBP;
  - has designated a dependable individual or individuals to be responsible for recordkeeping compliance and whose duties include maintaining familiarity with CBP’s recordkeeping requirements;
  - has a record maintenance procedure acceptable to CBP for original records or has adopted an acceptable alternative records maintenance procedure in accordance with Part 163; and
  - has procedures for notifying CBP of variances from, or violations of, the Recordkeeping Compliance Program as well as procedures for taking corrective action when notified by CBP of violations or problems involving recordkeeping.
- a “variance” is a deviation from the Recordkeeping Compliance Program agreement which does not involve a failure to maintain or produce records or a failure to meet the requirements of the Program.

- a “violation” is a deviation from the Recordkeeping Compliance Program which involves the failure to maintain or produce records or a failure to meet the requirements of the Program.

If necessary, the application will be forwarded by the Charlotte office to other concerned field and Headquarters offices for coordination and consultation. Additional information or on-site visits may be required before final acceptance. If the application is accepted, the applicant will be notified of the acceptance by the field director of regulatory audit who will issue the certification with all applicable conditions stated. If the certification is denied, a written notice to that effect together with the reasons for denial and advice on filing an administrative appeal will be given. The appeal must be filed with the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs and Border Protection, Washington, DC 20229 and must be received within 30 calendar days after issuance of the notice of denial. A decision on the appeal will generally be made within 30 calendar days after receipt. CBP may deny an application for certification for the following reasons:

- the applicant fails to meet the requirements of 19 CFR 163.12(b)(3);
- a circumstance involving the applicant arises which would justify initiation of a certification removal action; or
- in the judgment of CBP, the applicant is not in compliance with customs laws and regulations.

If a certified recordkeeper fails to produce a demanded entry record for a specific release, or fails to provide information by acceptable alternative means, CBP will issue a written **warning** notice in lieu of a penalty, provided that the recordkeeper is generally in compliance with the program’s procedures and requirements and is not a repeat violator, and provided that the violation was not willful. Willful or repeat violations can result penalties and in removal of certification under the program. The warning notice will:

- state that the recordkeeper has violated the recordkeeping requirements;
- indicate the record or information which was demanded and not produced; and
- warn the recordkeeper that future failures to produce demanded entry records or information may result in the imposition of monetary penalties and removal from the Program.

The recordkeeper will have to notify CBP of the corrective steps it has taken to prevent a recurrence of the violation.

If CBP determines that a certified recordkeeper should be removed from the Recordkeeping Compliance Program, the office which issued the certification will serve the recordkeeper with a written notice of removal informing the participant of the grounds for removal and its right to file an administrative appeal. The grounds for removal are:

- certification privilege was obtained through fraud or mistake of fact;
- the program participant no longer has a valid bond;
- the program participant fails on a recurring basis to provide entry records when demanded by CBP;
- the program participant willfully refuses to produce a demanded or requested record;
- the program participant is no longer in compliance with customs laws and regulations, including the requirements set forth in 19 CFR 163.12(b)(3); or
- the program participant is convicted of a felony or has committed acts which would constitute a misdemeanor or felony involving theft, smuggling, or any theft-connected crime.

The removal is effective immediately in cases of willfulness on the part of the program participant or when required by public health, interest, or safety. In all other cases, the removal is effective when the participant receives the removal notice and either no timely appeal has been filed or all appeal procedures have been concluded by a decision upholding the removal action. An appeal must be received by the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs and Border Protection, Washington, DC 20229, within 30 calendar days after issuance of the notice of removal. A decision on the appeal will generally be issued within 30 calendar days after receipt of the appeal.

## APPENDIX<sup>1</sup>

### LIST OF RECORDS REQUIRED TO BE MAINTAINED AND PRODUCED PURSUANT TO 19 U.S.C. §1509(a)(1)(A)

#### The “(a)(1)(A) list”

### RECORDS REQUIRED FOR THE ENTRY OF MERCHANDISE

#### GENERAL INFORMATION:

(1) Section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508), sets forth the general record keeping requirements for CBP-related activities. Section 509 of the Tariff Act of 1930, as amended (19 U.S.C. 1509) sets forth the procedures for the production and examination of those records (which includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data).

(2) Section 509(a)(1)(A) of the Tariff Act of 1930, as amended by title VI of Public Law 103-182, commonly referred to as the Customs Modernization Act (19 U.S.C. 1509(a)(1)(A)), requires the production, within a reasonable time after demand by CBP is made (taking into consideration the number, type and age of the item demanded) if “such record is required by law or regulation for the entry of the merchandise (whether or not CBP required its presentation at the time of entry).” Section 509(e) of the Tariff Act of 1930, as amended by Public Law 103-182 (19 U.S.C. 1509(e)) requires CBP to identify and publish a list of the records and entry information that is required to be maintained and produced under subsection (a)(1)(A) of section 509 (19 U.S.C. 1509 (a)(1)(A)). This list is commonly referred to as “the (a)(1)(A) list.”

(3) CBP has tried to identify all the presently required entry information or records on the following list. However, as automated programs and new procedures are introduced, these may change. In addition, errors and omissions to the list may be discovered upon further review by CBP officials or the trade. Pursuant to section 509(g), the failure to produce listed records or information upon reasonable demand may result in penalty action or liquidation or reliquidation at a higher rate than entered. A recordkeeping penalty may not be assessed if the listed information or records are transmitted to and retained by CBP.

**(4) Other recordkeeping requirements:** *The importing community and CBP officials are reminded that the (a)(1)(A) list only pertains to records or information required for the entry of merchandise. An owner, importer, consignee, importer of record, entry filer, or other party who imports merchandise, files a drawback claim or transports or stores bonded merchandise, any agent of the foregoing, or any person whose activities require them to file a declaration or entry, is also required to make, keep and render for*

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<sup>1</sup> The (a)(1)(A) list reprinted here is correct as of the date of publication. Readers should check for subsequent additions or deletions.

*examination and inspection records (including, but not limited to, statements, declarations, documents and electronically generated or machine readable data) which pertain to any such activity or the information contained in the records required by the Tariff Act in connection with any such activity; and are normally kept in the ordinary course of business. While these records are not subject to administrative penalties, they are subject to examination and/or summons by CBP officers. Failure to comply could result in the imposition of significant judicially imposed penalties and denial of import privileges.*

(5) The following list does not replace entry requirements, but is merely provided for information and reference. In the case of the list conflicting with regulatory or statutory requirements, the latter will govern.

## **LIST OF RECORDS AND INFORMATION REQUIRED FOR THE ENTRY OF MERCHANDISE**

The following records (which includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) are required by law or regulation for the entry of merchandise and are required to be maintained and produced to CBP upon reasonable demand (whether or not CBP required its presentation at the time of entry). Information may be submitted to CBP at time of entry in a CBP authorized electronic or paper format. Not every entry of merchandise requires all of the following information. Only those records or information applicable to the entry requirements for the merchandise in question will be required/mandatory. The list may be amended as CBP reviews its requirements and continues to implement the Customs Modernization Act. When a record or information is filed with and retained by CBP, the record is not subject to record keeping penalties, although the underlying backup or supporting information from which it is obtained may also be subject to the general record retention regulations and examination or summons pursuant to 19 U.S.C. §§1508 and 1509.

(All references, unless otherwise indicated, are to the current edition of title 19, Code of Federal Regulations, as amended by subsequent Federal Register documents.)

**I. General list or records required for most entries.** Information shown with an asterisk (\*) is usually on the appropriate form and filed with and retained by CBP:

- §§141.11-141.15 Evidence of right to make entry (airway bill/bill of lading or \*carrier certificate, etc.) when goods are imported on a common carrier.
- §141.19 \*Declaration of entry (usually contained on the entry summary or warehouse entry)
- §141.32 Power of attorney (when required by regulations)
- §141.54 Consolidated shipments authority to make entry (if this procedure is utilized)



- §142.3 Packing list (where appropriate)
- §142.4 Bond information (except if '10.101 or '142.4(c) applies)
- Parts 4, 18, 122, 123 \*Vessel, Vehicle or Air Manifest (filed by the carrier)

**II. The following records or information are required by §141.61 on CBP Form (CBPF) 3461 or CBPF 7533 or the regulations cited.** Information shown with an asterisk (\*) is contained on the appropriate form and/or otherwise filed with and retained by CBP:

- §§142.3, 3a \*Entry Number
- \*Entry Type Code
- \*Elected Entry Date
- \*Port Code
- §142.4 \*Bond information
- §§141.61, 142.3a \*Broker/Importer Filer Number
- §§141.61, 142.3 \*Ultimate Consignee Name and Number /street address of premises to be delivered
- §141.61 \*Importer of Record Number
- \*Country of Origin
- §141.11 \*IT/BL/AWB Number and Code
- \*Arrival Date
- §141.61 \*Carrier Code
- \*Voyage/Flight/Trip
- \*Vessel Code/Name
- \*Manufacturer ID Number (for AD/CVD must be actual mfr.)
- \*Location of Goods-Code(s)/Name(s)
- \*U.S. Port of Unlading
- \*General Order Number (only when required by the regulations)
- §142.6 \*Description of Merchandise
- §142.6 \*HTSUSA Number
- §142.6 \*Manifest Quantity
- \*Total Value
- \*Signature of Applicant

**III. In addition to the information listed above, the following records or items of information are required by law and regulation for the entry of merchandise and are presently required to be produced by the importer of record at the time the CBPF 7501 is filed.**

- §141.61 \*Entry Summary Date
- §141.61 \*Entry Date
- §142.3 \*Bond Number, Bond Type Code and Surety code
- §142.3 \*Ultimate Consignee Address
- §141.61 \*Importer of Record Name and Address
- §141.61 \*Exporting Country and Date Exported
- \*I.T. (In-bond) Entry Date (for IT Entries only)

	*Mode of Transportation (MOT Code)
§141.61	*Importing Carrier Name
§141.82	Conveyance Name/Number
	*Foreign Port of Lading
	*Import Date and Line Numbers
	*Reference Number
	*HTSUS Number
§141.61	*Identification number for merchandise subject to Anti-dumping or Countervailing duty order (ADA/CVD Case Number)
§141.61	*Gross Weight
	*Manifest Quantity
§141.61	*Net Quantity in HTSUSA Units
§141.61	*Entered Value, Charges, and Relationship
§141.61	*Applicable HTSUSA Rate, ADA/CVD Rate, I.R.C. Rate, and/or Visa Number, Duty, I.R. Tax, and Fees (e.g. HMF, MPF, Cotton)
§141.61	Non-Dutiable Charges
§141.61	*Signature of Declarant, Title, and Date
	*Textile Category Number
§§141.83, 86	Invoice information which includes-e.g., date, number, merchandise (commercial product) description, quantities, values, unit price, trade terms, part, model, style, marks and numbers, name and address of foreign party responsible or invoicing, kind of currency; Terms of Sale Shipping Quantities Shipping Units of Measurements Manifest Description of Goods Foreign Trade Zone Designation and Status Designation (if applicable) Indication of Eligibility for Special Access Program (9802/GSP/CBI)
§141.89	CBPF 5523
Part 141	Corrected Commercial Invoice
§141.86 (e)	Packing List
§177.8	*Binding Ruling Identification Number (or a copy of the ruling)
§10.102	Duty Free Entry Certificate (9808.00.30009 HTS)
§10.108	Lease Statement

**IV. Documents/records or information required for entry of special categories of merchandise** (The listed documents or information is only required for merchandise entered (or required to be entered) in accordance with the provisions of the sections of 19 CFR (CBP Regulations) listed). *These are In addition to any documents/records or information required by other agencies in their regulations for the entry of merchandise:*

§4.14	CBPF 226 Information for vessel repairs, parts and equipment
§7.3(f)	CBPF 3229 Origin certificate for insular possessions
	Shipper's and importer's declaration for insular possessions
Part 10	Documents required for entry of articles exported and returned:

§§10.1-10.6	Foreign shipper's declaration or master's certificate, Declaration for free entry by owner, importer or consignee
§10.7	Certificate from foreign shipper for reusable containers
§10.8	Declaration of person performing alterations or repairs Declaration for non-conforming merchandise
§10.9	Declaration of processing
§10.24	Declaration by assembler Endorsement by importer
§§10.31, 10.35	Documents required for Temporary Importations Under Bond: Information required, Bond or Carnet
§10.36	Lists for samples, professional equipment, theatrical effects Documents required for Instruments of International Traffic:
§10.41	Application, Bond or TIR carnet Note: additional 19 U.S.C. 1508 records: see '10.41b(e)
§10.43	Documents required for exempt organizations
§10.46	Request from head of agency for 9808.00.10 or 9808.00.20 HTSUS treatment Documents required for works of art
§10.48	Declaration of artist, seller or shipper, curator, etc
§§10.49, 10.52	Declaration by institution
§10.53	Declaration by importer USFWS Form 3-177, if appropriate
§§10.59, 10.63	Documents/ CBPF 5125/ for withdrawal of ship supplies
§§10.66, 10.67	Declarations for articles exported and returned
§§10.68, 10.69	Documents for commercial samples, tools, theatrical effects
§§10.70, 10.71	Purebred breeding certificate
§10.84	Automotive Products certificate
§10.90	Master records and metal matrices: detailed statement of cost of production.
§10.98	Declarations for copper fluxing material
§10.99	Declaration of non-beverage ethyl alcohol, ATF permit
§§10.101-10.102	Stipulation for government shipments and/or Certification for government duty-free entries, etc.
§10.107	Report for rescue and relief equipment
15 CFR Part 301	Requirements for entry of scientific and educational apparatus
§10.121	Certificate from USIA for visual/auditory materials
§10.134	Declaration of actual use (When classification involves actual use)
§10.138	End Use Certificate
§§10.171-10.178	Documents, etc. required for entries of GSP merchandise, GSP Declaration (plus supporting documentation)
§10.174	Evidence of direct shipment
§10.179	Certificate of importer of crude petroleum
§10.180	Certificate of fresh, chilled or frozen beef
§10.183	Civil aircraft parts/simulator documentation and certifications
§§10.191-.198	Documents, etc. required for entries of CBI merchandise: CBI declaration of origin (plus supporting information)

§10.194	Evidence of direct shipment
§10.199	Documents, etc. required for duty-free entry of spirituous beverages produced in Canada from CBI rum, declaration of Canadian processor (plus supporting information)
§10.216	AGOA Textile Certificate of Origin and supporting records
§10.226	CBTPA Textile Certificate of Origin and supporting records
§10.228	CBTPA Declaration of Compliance for brassieres
§10.236	CBTPA Non-textile Certificate of Origin and supporting documents
†§10.306	<i>Evidence of direct shipment for CFTA]</i>
†§10.307	<i>Documents, etc. required for entries under CFTA Certificate of origin of CF 353]</i> <i>[†CFTA provisions are suspended while NAFTA remains in effect. See part 181]</i>
§10.246	ATPDEA Textile Certificate of Origin
§10.248	ATPDEA Declaration of Compliance for Brassieres
§10.256	ATPDEA Non-textile Certificate of origin
§12.6	European Community cheese affidavit
§12.7	HHS permit for milk or cream importation
§12.11	Notice of arrival for plant and plant products
§12.17	APHIS Permit animal viruses, serums and toxins
§12.21	HHS license for viruses, toxins, antitoxins, etc for treatment of man
§12.23	Notice of claimed investigational exemption for a new drug
§§12.26-12.31	Necessary permits from APHIS, FWS & foreign government certificates when required by the applicable regulation
§12.33	Chop list, proforma invoice and release permit from HHS
§12.34	Certificate of match inspection and importer's declaration
§12.43	Certificate of origin/declarations for goods made by forced labor, etc.
§12.61	Shipper's declaration, official certificate for seal and otter skins
§§12.73, 12.80	Motor vehicle declarations
§12.85	Boat declarations(CG-5096) and USCG exemption
§12.91	FDA form 2877 and required declarations for electronics products
§12.99	Declarations for switchblade knives
§§12.104-12.104i	Cultural property declarations, statements and certificates of origin
§§12.105-12.109	Pre-Columbian monumental and architectural sculpture and murals Certificate of legal exportation Evidence of exemption
§12.110	Pesticides, etc. notice of arrival
§§12.118-12.127	Toxic substances: TSCA statements
§12.130	Textiles & textile products Single country declaration Multiple country declaration VISA
§12.132	NAFTA textile requirements

§12.140	Province of first manufacture, export permit number and fee status of softwood lumber from Canada
§54.5	Declaration by importer of use of certain metal articles
§54.6 (a)	Re-Melting Certificate
Part 113	Appendix B Bond to Indemnify Complainant Under Section 337, Tariff Act of 1930, as Amended
Part 114	Carnets (serves as entry and bond document where applicable)
Part 115	Container certificate of approval
Part 128	Express consignments
§128.21	*Manifests with required information (filed by carrier)
§§132.15, 17	Export certificates, respectively, for beef or sugar-containing products subject to tariff-rate quota
§132.18	License, or written authorization, as applicable, for worsted wool fabric subject to tariff-rate quota.
§132.23	Acknowledgment of delivery for mailed items subject to quota
§133.21(b)(6)	Consent from trademark or trade name holder to import otherwise restricted goods
§§134.25, 134.36	Certificate of marking; notice to repacker
§141.88	Computed value information
§141.89	Additional invoice information required for certain classes of merchandise including, but not limited to: <u>Textile Entries:</u> Quota charge Statement, if applicable including Style Number, Article Number and Product <u>Steel Entries</u> Ordering specifications, including but not limited to, all applicable industry standards and mill certificates, including but not limited to, chemical composition.
§143.13	Documents required for appraisement entries: bills, statements of costs of production, value declaration
§143.23	Informal entry: commercial invoice plus declaration
§144.12	Warehouse entry information
§145.11	CBP Declaration for Mail, Invoice
§145.12	Mail entry information (CBPF 3419 is completed by CBP but formal entry may be required.)
Part 148	Supporting documents for personal importations
Part 151, subpart B	Scale Weight
Part 151, subpart B	Sugar imports sampling/lab information (Chemical Analysis)
Part 151, subpart C	Petroleum imports sampling/lab information
	Out turn Report 24. to 25. - Reserved
Part 151, subpart E	Wool and Hair invoice information, additional documents
Part 151, subpart F	Cotton invoice information, additional documents
§181.22	NAFTA Certificate of origin and supporting records
19 U.S.C. 1356k	<i>Coffee Form O (currently suspended)</i>

### **Other Federal and State Agency Documents**

State and Local Government Records

Other Federal Agency Records (See 19 CFR Part 12, 19 U.S.C. 1484, 1499)  
Licenses, Authorizations, Permits

**Foreign Trade Zones**

146.32      Supporting documents to CBPF 214

## **ADDITIONAL INFORMATION**

### **The Internet**

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

### **Customs Regulations**

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

### **Customs Bulletin**

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

## **Importing Into the United States**

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

## **Informed Compliance Publications**

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.



## Value Publications

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

## **“Your Comments are Important”**

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).



Visit our Internet web site: <http://www.cbp.gov>