

preliminarily determined to delete section 254.10, "Affirmative disclosures prior to enrollment." Subsections (a) through (d) of this section address school policy concerning attendance, lateness, and make-up work; additional costs a student might incur; the school's physical facilities and equipment; and placement assistance offered by the school. To the extent they are needed, discussion of these issues can be folded into prior sections of the Guides dealing with misrepresentations and deceptive practices, possibly as examples of suggested disclosures that might prevent deception. Finally, section 254.10(e) of the Guides advises affirmative disclosure of any "material facts [other than those specifically addressed in subsections (a)-(d) of this section] concerning the school and the program of instruction or course which are reasonably likely to affect the decision of the student to enroll therein." Such a general admonishment adds little to the more specific advice set out in the remainder of the Guides. This provision merely amounts to a statement of the law concerning failure to disclose material facts and therefore appears unnecessary.

#### IV. Request for Comment

The Commission solicits public comments on the following questions:

1. *Should the Guides be amended to add the following provision to § 254.4?* (e) An industry member, in promoting any course of training in its advertising, promotional materials or in any other manner, should not misrepresent, directly or by implication, whether through the use of text, images, endorsements,\* or other means, the availability of employment after graduation from a course of training, or the success that the member's graduates have realized in obtaining such employment.

\***Note:** The Commission's Guides Concerning Use of Endorsements and Testimonials in Advertising (part 255 of this chapter) provide further guidance in this area.

2. Are there currently problems in the vocational schools industry with use of the kinds of claims addressed in the proposed addition to the Guides? If yes, please describe.

3. Are there other issues, relevant to a prospective student's decision to enroll in a vocational school or course of training, that are not already covered by the Guides but should be addressed? Please explain.

**Authority:** 15 U.S.C. 41–58.

#### List of Subjects in 16 CFR Part 254

Advertising, Trade practices.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 97–10530 Filed 4–22–97; 8:45 am]

BILLING CODE 6750–01–M

#### DEPARTMENT OF THE TREASURY

##### Customs Service

##### 19 CFR Parts 24, 111, 143, 162, and 163

RIN 1515–AB77

##### Recordkeeping Requirements

**AGENCY:** U.S. Customs Service; Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations by adding a new part which will cover recordkeeping requirements and reflect legislative changes to the Customs laws regarding recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. These statutory amendments are contained in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. The new provisions are being incorporated into the new part with the existing recordkeeping requirements (presently in Part 162) which remain effective, although they are being updated to permit the use of new technology and alternative methods for record maintenance. The proposed amendment also contains provisions establishing a voluntary recordkeeping compliance program.

**DATES:** Comments must be submitted on or before June 23, 1997.

**ADDRESSES:** Written comments on the proposed regulation (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW, Suite 4000, Washington, D.C.

Copies of the Recordkeeping Compliance Handbook are available from the public access Customs Electronic Bulletin Board (703)–440–6155 or by requests addressed or faxed to the following: U.S. Customs Service, Regulatory Audit Division, Miami Branch 909 S.E. First Street, Suite 710, Miami, FL 33131, Attention: Recordkeeping Compliance Program, Fax: (305)–536–7442.

Written comments on the Recordkeeping Compliance Handbook may be sent by facsimile or mail to the following address: U.S. Customs Service, Regulatory Audit Division, Atlanta Branch 1691 Phoenix Boulevard, Suite 250A, College Park, GA 30349, Attention: Recordkeeping Compliance Program, Fax: (770)–994–2270.

**FOR FURTHER INFORMATION CONTACT:** For questions relating to recordkeeping in general, and the voluntary Recordkeeping Compliance Program, call Stan Hodziewicz, Regulatory Audit Division, Washington, D.C. at (202)–927–0999 or Howard Spencer, Regulatory Audit Division, Atlanta Branch at (770)–994–2273, Ext. 158).

For questions relating to the Appendix ((a)(1)(A) list), its underlying documents and other entry records/information call Rychelle Ingram, Office of Trade Compliance 202–927–1131.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 8, 1993, the President signed Public Law 103–182, the North American Free Trade Agreement Implementation Act (NAFTA Implementation Act)(107 Stat. 2057). Title VI of this Act, known as the Customs Modernization Act (the Mod Act), amended certain Customs laws. Sections 614, 615, and 616 of the Mod Act amended §§ 508, 509, and 510 of the Tariff Act of 1930, as amended (19 U.S.C. 1508, 1509, and 1510) which pertain to recordkeeping requirements established for importers and others. Title II of the NAFTA Implementation Act, entitled "Customs Provisions", also amended §§ 508 and 509 of the Tariff Act of 1930, as amended, to include recordkeeping requirements for exportations to Canada and Mexico.

Part 162 of the Customs Regulations which addresses records, recordkeeping and its associated requirements also covers unrelated subjects. Because of the enhanced importance of recordkeeping, Customs believes that a new part devoted solely to this subject is appropriate. Accordingly, Customs is proposing to create a new Part 163 regarding recordkeeping.

##### Recordkeeping Requirements

Before its amendment by the Mod Act, § 508 of the Tariff Act of 1930 (19 U.S.C. 1508) limited recordkeeping requirements to any owner, importer, consignee, or agent thereof who imported, or knowingly caused to be imported any merchandise into the Customs territory of the United States. Section 614 of the Mod Act amended

these requirements and expanded the parties subject to Customs recordkeeping requirements to include parties who file an entry or declaration, transport or store merchandise carried or held under bond, file drawback claims, or cause an importation, or transportation or storage of merchandise carried or held under bond. Section 614 of the Mod Act further amended section 508 of the Tariff Act of 1930 to clarify that all parties who must keep records for Customs purposes are subject to recordkeeping requirements. The Mod Act further distinguished between those business, financial or other records that pertain to activities listed in section 508 of the Tariff Act and are maintained in the normal course of business and those that are identified as "(a)(1)(A) list" or entry records. As discussed more fully later in this document, these latter records are those which have been identified by Customs as being necessary for the entry of merchandise. The failure to maintain, or produce these records upon Customs demand could subject the responsible party to substantial administrative penalties.

Proposed § 163.2 sets forth the parties who are subject to recordkeeping requirements. It is noted that the parties who are required to maintain records for purposes of the U.S.—Canada Free Trade Agreement and NAFTA are set forth respectively in parts 10 and 181.

In § 163.2(a), a provision concerning recordkeeping requirements for records kept in the ordinary course of business is proposed to reflect the expanded parties to whom recordkeeping requirements extend. The proposed section provides that records are to be made and kept by such parties as carriers, cartmen, bonded warehouse proprietors, foreign trade zone operators and drawback claimants.

Because Customs recognizes that the likelihood it will require or request records from travelers regarding their baggage or oral declarations after they have physically cleared the Customs facility is extremely small except for large purchases, and because Customs does not wish to impose an unnecessary recordkeeping burden on the general public, Customs, in § 163.2(g), is proposing to not require that such travelers retain the documentation which supports their declaration when the merchandise acquired abroad is covered by the traveler's personal exemption or by a flat rate of duty (See, for example, subheadings 9804.00.65—9804.00.72, 9816.00.20 and 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and part 148 of the Customs Regulations). However, such travelers while not being

required to retain records for Customs purposes may deem it advisable to retain them for other personal reasons, such as insurance or warranty matters.

Section 163.4 of the proposed regulations provides that records relating to drawback be retained for a period of three years from the date the drawback claim is paid. Since entry records relating to the merchandise for which the drawback claim was paid must be kept for five years, it is possible that the total retention requirement could extend to eight years' it is possible that the total retention requirement could extend to eight years. All other records, except for packing lists, that relate to filing an entry or declaration, transporting or storing merchandise carried or held under bond, or causing an importation, transportation or storage of merchandise carried or held under bond into or from the Customs territory of the U.S. are required to be kept for a five year period from the date of entry or exportation, or other activity, as appropriate. An exception from the normal retention period is made for packing lists because of the limited period in which information contained on those lists would be useful for either Customs or the importer.

The Mod Act also amended 19 U.S.C. 1508 to reflect the current electronic environment in which both Customs and the importing and exporting community operate and expanded the definition of "records" to include information and data maintained in the form of electronically generated or machine readable data. The proposed amendment reflects this expansion of the concept of what constitute "records" in § 163.1(a).

#### Examination of Records

The Mod Act granted Customs authority not to require the presentation of certain documentation or information at time of entry. These provisions will allow Customs and the importing community to reduce the documentation and information requirements at time of entry, thereby facilitating the entry process without jeopardizing Customs ability to obtain records from an importing party at a later date. However, in exchange for not requiring presentation of documents at the time of entry, Customs has the authority to require, after entry, the production of any entry records whose presentation may not have been requested at entry. Section 615 of the Mod Act amended § 509 of the Tariff Act of 1930 (19 U.S.C. 1509) to authorize Customs to examine any records which are required by law for

the entry of merchandise, whether or not Customs required its presentation at the time of entry. Failure to maintain or produce requested entry documents may result in the imposition of substantial administrative penalties.

In the spirit of "informed compliance" and in fairness to those who may be required to produce records, the Act requires Customs to identify and make available to the importing community, by publication, a list of all records, statements, declarations or documents required by law or regulation for the entry of merchandise whose production may or may not have been requested at time of entry and for which substantial administrative penalties may be imposed for failure to maintain or produce for Customs within a reasonable time. This list of records has commonly been referred to as the "(a)(1)(A) list" because of the section of the Mod Act which contained the requirement. This list, which was published in the Customs Bulletin on January 3, 1996 (T.D. 96-1), and the **Federal Register** on July 15, 1996 (61 FR 36956) is included as an Appendix to part 163.

It should be noted that while the "(a)(1)(A) list" 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, exports to a NAFTA country or transports or stores bonded merchandise is also required to make, keep and render for examination and inspection records (including, but not limited to, statements, declarations, documents and electronically generated or readable data) directly or indirectly pertaining to such activity or to the information contained in the records required by the Tariff Act of 1930, as amended, in connection with any such activity and which are normally kept in the ordinary course of business. Parties have the responsibility to maintain supporting records, documents, and information which will demonstrate that information on declarations regarding classification, valuation and rate of duty at entry, as well as all other data on entry records is accurate.

In the future, as Customs expands its electronic entry processes, presentation of certain supporting paper documentation for entries may be waived at the time of entry. However, importers shall be required to maintain such documentation subject to this part. Before Customs implements any new procedures which relate to the electronic entry of goods, a Notice of

Proposed Rulemaking will be published in the **Federal Register**.

The present "(a)(1)(A) list" is based on existing entry requirements. It contains a list of records that are required for the entry of merchandise and that may be waived at the time of entry, but that must be produced for Customs examination upon demand. A party who fails to produce an "(a)(1)(A) list" record can be held liable for penalties under the provisions of the Mod Act. Customs will presently revise its processes relating to entry. It is expected that the "(a)(1)(A) list" will be extensively revised. The proposed regulations incorporate Customs authority to waive the presentation of certain documentation or information at the time of entry.

### Penalties

The proposed regulations incorporate Customs authority to assess administrative penalties for failure to produce entry records for Customs examination within a reasonable time. In determining a reasonable time, Customs proposes to take into account the number, type, and age of the item asked to be produced. Included in the proposed regulation is a chart that is intended to provide general guidelines so the public will know the time frames within which Customs expects documents to be produced. It is expected that all parties will discuss the expected production date of any items Customs has requested when that item has been requested. It is also expected that any party anticipating difficulty in meeting the expected production date will immediately inform Customs of that difficulty. Parties who have been assessed administrative penalties for failure to produce demanded "(a)(1)(A) list" records will be able to petition for mitigation of the penalties under the provisions of part 171 of the Customs Regulations. In addition to administrative penalties, the Mod Act has granted courts the authority to impose monetary penalties for the failure to produce records summoned by Customs. These provisions are contained in § 163.12.

### Requests for Production of Records, Summons

The proposed regulations contain provisions in §§ 163.6 through 163.11 that are similar to existing regulations regarding Customs ability to request and summon records when audits, inquiries, reviews or investigations are being conducted or when such information is otherwise necessary to verify information submitted to Customs or to complete Customs processing of an

entry. However, the regulations have been expanded to include additional parties who are subject to Customs summons authority.

### Regulatory Audit Procedures

The proposed § 163.13 details the role and responsibility of Customs regulatory auditors and formally sets forth regulatory audit procedures for conducting a regulatory audit that have been in place by directive for several years. The regulations provide for time lines for conducting an audit as well as issuance of audit reports.

### Recordkeeping Compliance Program

The proposed regulations contain provisions that describe a voluntary recordkeeping compliance program available to all parties who are required to maintain and produce records under the Customs Regulations and are in compliance with Customs laws and regulations. Applicants to the program may have Customs review their recordkeeping procedures and methods. If Customs determines that the party meets the program requirements, Customs may certify that fact and permit him to participate in the program. To assist the public in meeting Customs recordkeeping requirements, Customs has prepared a Recordkeeping Compliance Handbook which can be obtained from the Customs Electronic Bulletin Board or by faxing or writing the Regulatory Audit Division, Miami Field Office. Refer to the beginning of this document for the address and/or fax number. Participants in the program are eligible for alternatives to penalties and may be entitled to greater mitigation of any recordkeeping penalty the party might be assessed should he be unable to produce a requested record. However, repeated or willful failure to produce records or failure to exercise reasonable care in the maintenance of records or be in compliance with the recordkeeping requirements may cause a party's removal from the program and subject him to penalties. The recordkeeping compliance program will also permit participants to receive approval of recordkeeping formats that are tailored to the needs of their operations or involve conversion of records from one format to another.

### Other Sections Affected

In order to establish uniform recordkeeping requirements for parties who transact business with Customs in accordance with objectives of the Mod Act, the retention period for records relating to user fees for arrivals by railcar, which are contained in § 24.22(d)(5), and those for passengers

aboard commercial vessels and commercial aircraft in § 24.22(g)(6) is being amended to the same five year period that other recordkeepers must observe.

However, it must be noted that while the regulations establish a minimum requirement for the maintenance for records, this does not preclude Customs auditors from examining fee remitters' records, if records exist, to determine whether fees are owed for periods prior to the record retention period. Under section 19 CFR 162.1d (proposed 163.6), and 19 U.S.C. 1508 and 1509, Customs officers currently have the authority to examine records to determine the liability of any person from whom duties, fees, and taxes are due, or that may be due, and to determine compliance with the laws or regulations enforced by the Customs Service. If a fee remitter refuses to supply records to verify user fees, the Customs Service has the authority to summon those records pursuant to 19 U.S.C. 1509 or, if Customs possesses information to determine fee payments, collection action may be initiated. It should be pointed out that there is no language in 19 U.S.C. 58c or in the current regulations or other Customs laws that limits the liability for fees owed to a particular period. All fee remitters are liable for fees that are accrued on or after the effective dates of the statutes enacting the fees. Statutory and regulatory requirements for keeping fee-related records are not equivalent to statutes of limitations on collecting fees.

The document also proposes to make several changes to parts 111 and 143. The reference to § 162.1a and § 162.1b in the definition of records in § 111.1(f) will be changed to § 163.1(a) and § 163.2. An addition is made to § 111.21 to add new paragraphs (b) and (c). Section 111.21(b) will require brokers to comply with the provisions of § 163 when maintaining records that reflect on their transactions as a broker. Section 111.21(c) will require brokers to designate a recordkeeping officer and also designate a back-up recordkeeping officer. A change is proposed to § 111.22 (b), (c), (d), and (e) that will permit requests for exemptions for recordkeeping formats to be granted by the Field Director, Regulatory Audit responsible for the geographical area in which the designated broker's recordkeeping officer is located rather than requiring that the request be referred to port directors.

A change is being proposed to § 111.23(a)(1) that will permit brokers to consolidate all records they are required to maintain if their proposed consolidation plan is approved by the

Field Director of Regulatory Audit who has responsibility for the geographical area in which the designated broker's recordkeeping officer is located. This potentially shortens the approval time by removing port directors from the review and approval process. The current regulations permit brokers to centralize only accounting records and requires they maintain entry records within the district to which they relate. Brokers will also be permitted to store powers of attorney in alternative formats, if such storage has been approved in accordance with Part 163. These proposed changes will give brokers more flexibility in their record maintenance options.

The document contains proposals to amend §§ 143.35 and 143.36 to reflect Customs present practice relating to the submission of paper documents when entries are transmitted electronically through the ACS system. As Customs and the business community proceed into the paperless, electronic operating environment it is anticipated that actual transfer of documentation will occur less frequently and usually only at Customs request. However, Customs decision not to request presentation or submission of documents at the time of entry does not relieve the filer from the responsibility of maintaining those documents or records in accordance with the provisions of this part.

Amendments to § 143.37 are also proposed. A new proposed section (a) will require all brokers and importers to maintain records in accordance with the new part 163. The proposed language means that hard copy or electronic documentation supporting electronic immediate delivery, entry, and entry summary must be retained in the condition as received by the filer or importer, unless the filer has received permission to store such documentation in accordance with § 163.5. This change establishes uniform procedures for storing records in alternative formats. It is also proposed that § 143.37(c) be amended to permit filers to consolidate and store records and electronic data in alternative formats if their proposed plan is approved by the Field Director, Regulatory Audit who has responsibility for the geographical area in which the designated broker's recordkeeping officer is situated. Appeals from the decision of the Field Director would be to the Director of the Regulatory Audit Division in Washington, DC. This eliminates the need to refer the request to the Assistant Commissioner, Field Operations, as the current regulations require.

Other language changes to § 143.37(c) are proposed. The term "centralized

locations" is replaced with "consolidated locations". This proposed change is intended to give filers more flexibility in their record maintenance. Finally, § 143.39 is being amended to state that the failure to produce records in a timely manner could subject importers to penalties pursuant to part 163 and brokers to penalties pursuant to parts 111 and 163.

#### Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

#### Regulatory Flexibility Act

Insofar as the proposed regulation closely follows legislative direction, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

#### Executive Order 12866

The proposed amendment does not meet the criteria for a "significant regulatory action" under E.O. 12866.

#### Paperwork Reduction Act

The collection of information contained in this rulemaking has been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995. (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number.

The collection of information in these regulations is in §§ 163.2, 163.3 and 163.14. Although other parts of the Customs Regulations are being amended, all information required by this proposed amendment is contained or identified in the above-cited sections. This information is to be maintained in the form of records which are necessary

to ensure that the Customs Service will be able to effectively administer the laws it is charged with enforcing while, at the same time, imposing a minimum burden on the public it is serving. Respondents or recordkeepers are already required by statute or regulation to maintain the vast majority of the information covered in this proposed regulation. The likely respondents or recordkeepers are business organizations including importers, exporters and manufacturers.

*Estimated total annual reporting and/or recordkeeping burden:* 732,600 hours.

*Estimated average annual burden per respondent/recordkeeper:* 117.2.

*Estimated number of respondents and/or recordkeepers:* 6250.

*Estimated annual frequency of responses:* 4.

Comments concerning the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

#### Drafting Information

The principal authors of this document are Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings and Cindy Covell, Regulatory Audit Division, U.S. Customs Service. However, personnel from other offices participated in its development.

#### List of Subjects

##### 19 CFR Part 24

Accounting, Customs duties and inspection, Reporting and recordkeeping requirements, Harbors, Taxes.

**19 CFR Part 111**

Administrative practice and procedures, Customs duties and inspection, Brokers, Reporting and recordkeeping requirements, Penalties.

**19 CFR Part 143**

Customs duties and inspection, Reporting and recordkeeping requirements.

**19 CFR Part 162**

Administrative practice and procedure, Customs duties and inspection, Recordkeeping and reporting requirements, Trade agreements.

**19 CFR Part 163**

Administrative practice and procedure, Customs duties and inspection, Recordkeeping and reporting requirements, Trade agreements.

**Proposed Amendments to the Regulations**

It is proposed to amend Chapter I of Title 19, Code of Federal Regulations (19 CFR Chapter I) by amending parts 24, 111, 143 and 162, and by adding a new part 163 to read as follows:

**PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE**

1. The general authority citation for Part 24 continues to read in part as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 58a-58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624; 31 U.S.C. 9701.

\* \* \* \* \*

2. It is proposed to amend § 24.22(d)(5) by removing the phrase "shall be maintained for a period of 3 years" and adding, in its place, the phrase "shall be maintained in the United States for a period of 5 years".

3. It is proposed to amend § 24.22(g)(6) by removing the phrase "shall be maintained for a period of 2 years" and adding, in its place, the phrase "shall be maintained in the United States for a period of 5 years".

**PART 111—CUSTOMS BROKERS**

1. The general authority citation for Part 111 continues to read in part as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 20 Harmonized Tariff Schedule of the United States), 1624, 1641.

\* \* \* \* \*

2. In § 111.1, it is proposed to remove the section references "§ 162.1a" and "§ 162.1b" in the definition of

"Records" and add, in their place, respectively, the following section references: "§ 163.1a" and "§ 163.2".

3. Section 111.21 is proposed to be amended by designating the existing paragraph as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

**§ 111.21 Record of transactions.**

(a) \* \* \*

(b) Each broker shall comply with the provisions of part 163 of this chapter when maintaining records that reflect on his transactions as a broker.

(c) Each broker will designate a knowledgeable company employee to be the broker's recordkeeping officer as well as a back-up recordkeeping officer for broker-wide entry and financial recordkeeping requirements.

**§ 111.22 [Amended]**

4. Section 111.22 is proposed to be amended by removing the titles of "port director" and "director of the port" and adding, in their place, the phrase, "Field Director of Regulatory Audit responsible for the geographical area in which the broker's designated recordkeeping officer is located."

5. Section 111.23 is proposed to be amended by revising paragraphs (a)(1) and (b) to read as follows, by removing paragraphs (c) and (d), and by redesignating paragraph (e) as paragraph (c) and revising it by removing the word "centralized" and adding the word "consolidated" each time it appears, and by removing the words "office of Field Operations, Headquarters" and adding the words "Field Director, Regulatory Audit Division responsible for the geographic area in which the broker's designated recordkeeping officer is located" in its place.

**§ 111.23 Retention of records.**

(a) *Place and period of retention*—(1) *Place.* The records, as defined in § 111.1(f), and required by § 111.21 and § 111.22 to be kept by the broker, shall be retained within the broker district that covers the Customs port to which they relate unless approval for consolidation of records by the broker has been received from the Field Director of Regulatory Audit responsible for the geographical area in which the broker's designated recordkeeping officer is located. Appeals from a denial of consolidation privileges shall be filed with the Director, Regulatory Audit Division, U.S. Customs Service, Washington, DC 20229 within 30 days from the mailing of the Field Director's decision.

\* \* \* \* \*

(b) *Maintenance of records.* All records must be maintained in accordance with standards set forth in part 163 of this chapter.

\* \* \* \* \*

**PART 143—SPECIAL ENTRY PROCEDURES**

1. The general authority citation for part 143 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. Section 143.31 is proposed to be amended by removing the reference to § 162.1a(a) in paragraph (n) and replacing it with "Part 163".

3. Section 143.35 is proposed to be revised to read as follows:

**§ 143.35 Procedure for electronic entry summary.**

In order to obtain entry summary processing electronically, the filer will submit certified entry summary data electronically through ABI. Data will be validated and, if found error-free, will be accepted. If it is determined through selectivity criteria and review of data that documentation is required for further processing of the entry summary, Customs will so notify the filer. Documentation submitted before being requested by Customs will not be accepted or retained by Customs. The entry summary will be scheduled for liquidation once payment is made under statement processing (see § 24.25 of this chapter).

4. Section 143.46 is proposed to be amended by revising the first sentence of paragraph (a), and the first sentence of paragraph (c) to read as follows:

**§ 143.36 Forms of immediate delivery, entry and entry summary.**

(a) *Electronic form of data.* If Customs determines that the immediate delivery, entry or entry summary data is satisfactory under §§ 143.34 and 143.35, the electronic form of the immediate delivery, entry or entry summary through ABI shall be deemed to satisfy all filing requirements under this part.

\* \* \*

(b) \* \* \*

(c) *Submission of invoice.* The invoice will be retained by the filer unless requested by Customs. If the invoice is submitted by the filer before a request is made by Customs, it will not be accepted or retained by Customs. When Customs requests presentation of the invoice, invoice data must be submitted in one of the following forms:

\* \* \* \* \*

5. Section 143.37(a) is proposed to be revised to read as follows:

**§ 143.37 Retention of records.**

(a) *Record maintenance requirements.* All records received or generated by a broker or importer must be maintained in accordance with part 163 of this chapter.

\* \* \* \* \*

6. In § 143.37, paragraph (c) is proposed to be amended by removing the words "Assistant Commissioner, Field Operations, U.S. Customs Service, Washington, D.C." and adding the phrase "Field Director, Regulatory Audit Division responsible for the geographical area in which the broker's designated recordkeeping officer is located for consolidation of entry and/or financial records by the broker" in its place and removing the word "centralized" wherever it appears and replacing it with the word "consolidated".

**§ 143.37 [Amended]**

7. Section 143.37 (d) is proposed to be amended by removing the title "Assistant Commissioner, Field Operations" each time it appears and adding in its place, the title "Director, Regulatory Audit Division".

8. Section 143.39 is proposed to be revised to read as follows:

**§ 143.39 Penalties.**

(a) *Brokers.* Brokers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to parts 111 and/or 163 of this chapter.

(b) *Importers.* Importers unable to produce documents requested by Customs within a reasonable time will be subject to penalties pursuant to part 163 of this chapter.

**PART 162—INSPECTION, SEARCH, AND SEIZURE**

1. The authority citation for Part 162 continues to read in part as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1624.

\* \* \* \* \*

2. The heading of Part 162 is proposed to be revised to read as set forth above.

3. Section 162.0 is proposed to be revised to read as follows:

**§ 162.0 Scope.**

This part contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. It also contains provisions for Customs enforcement of the controlled substances, narcotics and marihuana laws. Provisions relating to petitions for

remission or mitigation of fines, penalties, and forfeitures incurred are contained in part 171 of this chapter.

4. In Subpart A, the Subpart heading is proposed to be revised to read as follows:

**Subpart A—Inspection, Examination, and Search**

5. In Subpart A, §§ 162.1a through 162.1i are proposed to be removed.

6. Part 163 is proposed to be added to read as follows:

**PART 163—RECORDKEEPING**

Sec.

- 163.0 Scope.
- 163.1 Definitions.
- 163.2 Parties required to maintain records.
- 163.3 Entry records.
- 163.4 Record retention period.
- 163.5 Alternate methods for storage of records.
- 163.6 Notices for production and examination of records and witnesses; penalties.
- 163.7 Summons.
- 163.8 Contents of summons.
- 163.9 Service of summons.
- 163.10 Third-party recordkeeper.
- 163.11 Enforcement of summons.
- 163.12 Failure to comply with court order; penalties.
- 163.13 Regulatory audit procedures.
- 163.14 Recordkeeping compliance program.
- 163.15 Denial, Suspension, Revocation, and Appeal Procedures.

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1508, 1509, 1510, 1624.

**§ 163.0 Scope.**

This part sets forth the recordkeeping requirements and procedures governing the maintenance, production, and examination of records. It also sets forth the procedures governing the examination of persons in connection with any audit, compliance assessment or other inquiry or investigation conducted for the purposes of ascertaining the correctness of any entry, for determining the liability of any person for duties, fees and taxes due or that may be due, for determining liability for fines, penalties and forfeitures, or for insuring compliance with the laws and regulations administered or enforced by Customs. Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters, and producers under the U.S. Canada Free Trade Agreement and the North American Free Trade Agreement are contained in parts 10 and 181 of this chapter, respectively.

**§ 163.1 Definitions.**

When used in this part, the following terms shall have the meaning indicated:

(a) *Records.* The term "records" means any information made or kept in the ordinary course of business that pertain directly or indirectly to the activities listed in paragraph (a)(1) of this section. Further, the term includes any information required for the entry of merchandise (the "(a)(1)(A) List") and other information pertaining directly or indirectly to any information element set forth in a collection of information required by the Tariff Act of 1930, as amended, in connection with any activity listed in paragraph (a)(1) of this section.

(1) *Activities.* The following are activities for purposes of the definition of "records" in paragraph (a) of this section:

- (i) any importation, declaration or entry;
- (ii) the transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;
- (iii) the filing of a drawback claim;
- (iv) any exportation to a NAFTA country;
- (v) the collection or payment of fees and taxes to Customs; or
- (vi) any other activity required to be undertaken pursuant to the laws or regulations administered by the Customs Service.

(2) *Examples.* Examples of information which are considered records include but are not limited to: statements, declarations, documents or electronically generated or machine readable data, books, papers, correspondence, accounts, financial accounting data, technical data, computer programs necessary to retrieve information in a usable form, and entry records (contained on the "(a)(1)(A)" list).

(b) *"(a)(1)(A) list".* See Entry Records.

(c) *Audit.* "Audit" means a Customs regulatory audit verification of records and other information required to be maintained and produced by parties listed in § 163.2 or other applicable laws and regulations administered by the Customs Service. The purpose of an audit is to determine that information submitted or required is accurate, complete and in accordance with laws and regulations administered by the Customs Service.

(d) *Certified recordkeeper.* A "certified recordkeeper" is a party, required to keep and maintain records, who is the primary responsible participant of a Customs approved recordkeeping compliance agreement in accordance with § 163.14. An agent may not be a certified recordkeeper unless the agent is the importer of record and meets the requirements of § 163.14;

however a Customs broker may be a certified recordkeeper's agent in its own name and on its own account for records required by § 111.21 without client participation. The parties who are certified by Customs as participants in a recordkeeping compliance program with Customs will consist of the following: Customs and a certified recordkeeper, or Customs and a certified recordkeeper and its certified recordkeeping agent, or Customs and a Customs broker who requests certification in its own name and on its own account.

(e) *Certified recordkeeper's agent.* A "certified recordkeeper's agent" is a party, other than a certified recordkeeper, who will keep and maintain records on behalf of a certified recordkeeper, pursuant to a Customs approved agreement, subject to the provisions of § 163.14.

(f) *Compliance assessment.* A "compliance assessment" is the first phase of an audit. During this phase, Customs officers review, examine and test samples of an auditee's documentation (records normally kept in the ordinary course of business that support statements and declarations made to Customs), internal controls, operations, and procedures to ensure compliance with laws and regulations administered by Customs. The completion of a compliance assessment does not necessarily mandate that a detailed audit be performed. However, if a compliance assessment is expanded, auditors will conduct detailed audit steps to further examine non-compliant practices, to identify causes, effects, and necessary corrective action, to implement corrective action plans and to conduct follow-up of corrective actions.

(g) *Entry records/"(a)(1)(A) list".* The terms "entry records" and "(a)(1)(A) list" refer to records or information required by law or regulation for the entry of merchandise (whether or not Customs required its presentation at the time of entry). The "(a)(1)(A) list" is contained in the Appendix.

(h) *Original records/information.* The terms "original records" or "original information" mean paper documents or electronic data retained in the condition they were received by the party responsible for maintaining records pursuant to 19 U.S.C. 1508. Electronic information which was used to develop paper documents will be considered the original record/information. Original electronic information or paper documents must be provided to Customs within a reasonable time if requested or demanded pursuant to § 163.6. Electronic information shall be

provided to Customs officials in a readable format such as in a facsimile paper format or an electronic or hardcopy spreadsheet. If a paper record or document is part of a multi-part form where all copies are made by the same impression, a carbon-copy original form, a facsimile copy, or a photocopy of the original will be acceptable. When an original record or document is provided to another government agency which retains it, a certified copy will be acceptable, and penalties will not be assessed for not having the original information/records in accordance with § 163.6. When requested by Customs, a signed statement shall accompany the copy certifying it to be a true copy of the original record or document.

(i) *Summons.* "Summons" means any summons issued that requires either the production of records or the giving of testimony, or both.

(j) *Technical data.* "Technical data" are records which include diagrams, and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper, cards, photographs, blueprints, tapes, microfiche, film, magnetic storage or other media.

(k) *Third-party recordkeeper.* "Third-party recordkeeper" means any attorney, any accountant or any Customs broker unless such Customs broker is the importer of record on an entry.

#### **§ 163.2 Parties required to maintain records.**

(a) *Recordkeeping required.* The following parties shall make, keep, and render for examination and inspection such records as defined in § 163.1(a):

(1) An owner, importer, consignee, importer of record, entry filer, or other party who—

(i) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(ii) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) An agent of any party described in paragraph (a)(1); or

(3) A person whose activities require the filing of a declaration or entry, or both.

(b) *Domestic transaction excluded.* A person ordering merchandise from an importer in a domestic transaction who does not knowingly cause merchandise to be imported is not required to make and keep records unless:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (e.g., the importer is not an independent contractor but the agent of the person placing the order. For example: The average consumer who purchases an imported automobile would not be required to maintain records, but a transit authority that prepared detailed specifications from which imported subway cars or buses were manufactured would be required to maintain records); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise.

(c) *Recordkeeping required for exporters.* Any party that exports to Canada or Mexico pursuant to the North American Free Trade Agreement must maintain records in accordance with the regulations as set forth in part 181 of this chapter.

(d) *Recordkeeping required for Customs brokers.* Each Customs broker shall maintain and produce records in accordance with parts 111 and 163 of this chapter.

(e) *Recordkeeping required for parties filing drawback claims.* A party filing a drawback claim shall make, keep and render for examination records required by the Customs Regulations and other records which pertain to that activity and are ordinarily kept in the normal course of business.

(f) *Recordkeeping required for other activities.* Each party who transports or stores merchandise carried or held under bond into or from the customs territory of the United States shall make, keep and render for examination records which pertain to such Customs activity and are ordinarily kept in the normal course of business or are required by law or regulation for the entry of merchandise.

(g) *Recordkeeping required for travelers.* After having physically cleared the Customs facility, a traveler who made a baggage or oral declaration upon arrival in the United States will not be 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.

#### **§ 163.3 Entry records.**

Any party described in § 163.2(a) in connection with an import transaction shall be prepared to produce or transmit



to Customs within a reasonable time after demand any records which are required by law or regulation for the entry of merchandise ("(a)(1)(A) list"). If the records are returned by Customs, or production at the time of entry is waived by Customs, the party shall retain such records. Copies of records which are kept ordinarily in the normal course of business, must be retained whether or not a copy is retained by Customs. In any situation, the responsible party shall, upon demand by Customs, taking into consideration the number, type, and age of the items demanded, produce such records within a reasonable time. (See § 163.6)

#### § 163.4 Record retention period.

(a) *General rule.* Any record required to be made, kept, and rendered for examination and inspection by Customs under § 163.2 shall be kept for 5 years from the date of entry, if the record relates to an entry, or 5 years from the date of the activity which required creation of the record unless excepted pursuant to paragraph (b) of this section.

(b) *Exceptions.* (1) Any record relating to a drawback claim shall be kept until the third anniversary of the date of payment of the claim.

(2) Packing Lists shall be retained for a period of 60 days from the end of the release or conditional release period, or, if a demand for recall has been issued, for a period of 60 days from the date the goods are redelivered, or by the date specified in the notice as the latest redelivery date.

(3) If another regulation in this chapter specifies a different record retention period than this section for a specific type of record, the other regulation controls.

#### § 163.5 Methods of storage for records.

(a) *Original Records/Information.* All parties listed in § 163.2 must maintain all records required by law and regulation for the required retention periods, in the original formats as defined in § 163.1(h), whether paper or electronic, unless alternative storage methods have been approved in writing by the director of the regulatory audit field office who has responsibility for the geographical area in which the designated requestor's recordkeeping officer resides. The records must be capable of being retrieved upon lawful request or demand by Customs.

(b) *Approval for alternative method of storage.* Any of the parties listed in § 163.2 may request Customs approval to maintain any records in an alternative format by writing to the director of the regulatory audit field office who has audit oversight responsibility for the

geographical area in which the designated requestor's recordkeeping officer resides and describing the proposed system of storage, the conversion techniques to be used and the security safeguards that will be employed to prevent alteration. If the applicable director of the regulatory audit field office is satisfied that the alternative methods proposed by the recordkeeper will insure the accuracy and availability of the records when required, written approval will be granted.

(c) *Standards for alternative storage methods.* Among methods commonly used in standard business practice for storage of records are: Machine readable data, CD ROM, and Microfiche. Methods that are in compliance with generally accepted business standards will generally satisfy Customs requirements provided that the method used is capable of retrieving records requested within a reasonable time after the request and that adequate provisions exist to prevent alteration, destruction, or deterioration of the records. The following are minimum standards that will be considered by Customs in evaluating proposals for alternative storage methods:

(1) A responsible and knowledgeable recordkeeping officer and a back up officer are designated to be accountable for the alternative storage of records;

(2) 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 original records. Procedures must also indicate and it must be certified (i) that documents that are required by other Federal or state agencies and that are similar to Customs records, are created and stored by the same procedures and (ii) that there is a standardized retrieval process for such records. Additionally, written procedures must document the electronic media used to store records and the life cycle and disposition procedures.

(3) The medium to which the transfer will occur is shown to be reliable. (Vendor specifications/documentation and benchmark data must be available for Customs review.)

(4) The data retention and transfer procedures are documented and provide reasonable assurance that the integrity, reliability, and security of the original data will be maintained. Procedures must include descriptions of authorized personnel access processes and back up and recovery systems.

(5) There is an audit trail describing the data transfer.

(6) The medium cannot be destroyed, discarded, or written over. The recordkeeper, after appropriate transition, and exception-reporting/testing of accuracy and readability of information, will transfer all information to non-erasable storage.

(7) The transfer process includes all relevant notes, worksheets, and other papers necessary for reconstructing or understanding the records (this also includes appropriate back-up procedures).

(8) There is an effective labeling, naming, filing, and indexing system that will permit easy retrieval in a timely fashion of records/information. Any indices, registers, or other finding aids shall be at the beginning of the records to which they relate unless alternative indexing is specifically authorized.

(9) There are adequate internal control systems, including segregation of duties, particularly between those responsible for maintaining and producing the original records and those responsible for the transfer process.

(10) All original records must be maintained for a minimum of one year after the date of transfer and internal sampling-exception-reporting/testing of accuracy and readability must be performed on a quarterly basis. No original records will be destroyed after a year unless there is acceptable proof that records/information are being accurately transferred.

(11) There is a system of continuing surveillance over the medium transfer system. Files of all internal reviews will be made available to Customs within a reasonable time after demand is made and retained for five years from the date of entry or the activity unless maintenance of records is required for another time period.

(12) There are procedures for preventing the destruction of any hard copy records that are required to be maintained by existing laws or regulations.

(13) All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall have the capability to make hard-copy reproductions of alternatively stored records. Parties shall bear the expense of the cost of making hardcopy reproductions of any or all alternatively stored records required by proper Customs officials for audit, inquiry, investigation, or inspection of such records/information.

(d) *Retention of records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall retain and keep available two copies of the records/information on approved media



at different locations for the periods specified in § 163.4.

(e) *Retrievability of records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods shall produce records as specified by § 163.6. A certified hardcopy may be used when information is received and stored electronically for Customs requests for information. Records shall be kept of the frequency and to whom copies of the records were given.

(f) *Changes to alternate storage procedures.* No changes to alternate recordkeeping procedures may be made without the approval of the appropriate Field Director, Regulatory Audit.

(g) *Notification of non-compliance.* Notification of non-compliance with the agreed upon alternative storage methods must be made within 10 business days to the applicable Field Director, Regulatory Audit. Notification must be in writing and it must detail what corrective action will take place.

(h) *Penalties.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods who fail to maintain or produce records in a reasonable time period shall be subject to penalties pursuant to § 163.6 for (a)(1)(A) records, and sanctions pursuant to §§ 163.11 and 163.12 for other records, and will have their alternative storage privileges revoked immediately by written notice.

(i) *Revocation of privilege to maintain alternative records.* All parties listed in § 163.2 who requested and were granted permission to use alternative storage methods and who fail to meet regulatory conditions and requirements shall, upon written notice, have the privilege revoked by the applicable regulatory audit field office director. The revocation shall be effective on the date of issuance of the written notice and shall remain in effect pending any appeal. Revocation requires the party immediately to begin to maintain original records and subjects them to penalties provided for in § 163.6 for failure to do so.

(j) *Appeal procedures for denial of alternate storage method or revocation action taken.* The denial of any proposed alternate method for the storage of records required to be maintained or any revocation of the privilege to store records in alternative formats may be appealed. Any appeal of such denial or revocation shall be in writing and directed to the Director, Regulatory Audit Division, Office of Strategic Trade, U.S. Customs Service, Washington, DC 20229. Appeals shall be filed within 30 days from the mailing of the Field Director's decision.

#### **§ 163.6 Notices for production and examination of records and witnesses; penalties.**

(a) *Production of entry records.* (1) Upon written, oral, or electronic notice, Customs may require the production of records required by law or regulation for the entry of merchandise, whether or not presentation was requested at the time of entry. Any oral request for records will be followed by a written request. The records shall be produced timely taking into consideration the number, type, and age of the item demanded. In order to provide the public with general guidelines of the time frames within which Customs expects parties to produce requested records, the following table shows various ages of records and the maximum length of time Customs expects to wait for their production. Should any recordkeeper from whom Customs has requested records foresee the inability to comply with the given time periods, Customs expects that they will immediately notify Customs, provide an explanation for the inability to meet the deadline, and provide Customs with a date on which the records will be produced.

Age of entry/entry summary	Maximum period for production of records (business days)
1 day to 1 month .....	5
1 month to 6 months .....	10
6 months to 1 year .....	15
1 year to 3 years .....	20
3 years to 5 years .....	30

(2) If the request includes records previously requested by Customs and provided to a Customs officer, the recordkeeper will provide the following information concerning the record: a copy of the Customs notice letter which originally requested the record, the date the record was provided to Customs, and the name and address of the person to whom the record was provided.

(b) *Nonproduction of entry records—*  
(1) *Penalties applicable for failure to maintain or produce entry records.* If the record Customs wishes to have produced is required by law or regulation for the entry of merchandise, the following penalties may be imposed if a person described in § 163.2(a) fails to comply with a lawful demand for the record and is not excused from a penalty in accordance with paragraph (b)(2) of this section:

(i) If the failure to comply is a result of the willful failure of the person to maintain, store, or retrieve the demanded record, such person shall be

subject to a penalty for each release of merchandise not to exceed \$100,000, or an amount equal to 75 percent of the appraised value of the merchandise, whichever amount is less.

(ii) If the failure to comply is a result of negligence of the person in maintaining, storing, or retrieving the demanded information, such person shall be subject to a penalty, for each release of merchandise, not to exceed \$10,000, or an amount equal to 40 percent of the appraised value of the merchandise, whichever amount is less.

(2) *Additional actions.* In addition to any penalty imposed under paragraph (b)(1)(i) and (b)(1)(ii) of this section, regarding demanded records, if the demanded record relates to the eligibility of merchandise for a column 1 special rate of duty in the Harmonized Tariff Schedule of the United States, the entry of such merchandise, unless subject to the exception in paragraph (b)(3) of this section:

(i) If unliquidated, shall be liquidated at the applicable column 1 general rate of duty; or

(ii) If liquidated within the 2-year period preceding the date of the demand, shall be reliquidated, notwithstanding the time limitation in 19 U.S.C. 1514 or 1520, at the applicable column 1 general rate of duty;

(3) *Exceptions.* Any liquidation or reliquidation under paragraph (b)(2)(i) or (b)(2)(ii) of this section shall be at the applicable column 2 rate of duty if the Customs Service demonstrates that the merchandise should be dutiable at such rate.

(4) *Avoidance of penalties for failure to maintain or produce entry records.* No penalty may be assessed under paragraph (b)(1) of this section if the person described in § 163.2(a) who fails to comply with a lawful demand for entry records can show:

(i) That the loss of the demanded information was the result of an act of God or other natural casualty or disaster beyond the fault of such person or an agent of the person;

(ii) On the basis of other evidence satisfactory to Customs, that the demand was substantially complied with;

(iii) That the information demanded was presented to and retained by the Customs Service at the time of entry or submitted in response to an earlier demand; or

(iv) that he is a participant in the recordkeeping compliance program (see § 163.14(b)(1)) and that this is his first violation and that it is a non-willful violation.

(5) *Penalties for failure to maintain or produce entry records not exclusive.* Any penalty imposed under paragraph

(b)(1) of this section shall be in addition to any other penalty provided by law except for:

(i) A penalty imposed under 19 U.S.C. 1592 for a material omission of the demanded information, or

(ii) Disciplinary action taken under 19 U.S.C. 1641.

(6) *Remission or mitigation of penalties for failure to maintain or produce entry records.* A penalty imposed under this section may be remitted or mitigated under 19 U.S.C. 1618.

(7) *Customs summons.* In addition to assessing penalties, Customs may issue a summons, pursuant to § 163.7 or seek its enforcement, pursuant to §§ 163.11–163.12, to compel the furnishing of any records required by law or regulation for the entry of merchandise.

(c) *Examination of records*—(1) *Reasons for.* Customs may initiate an inquiry, audit, compliance assessment or investigation to:

(i) Determine the correctness of any entry, the liability of duties, taxes and fees due or which may be due, or any liability for fines, penalties and forfeitures; or

(ii) Insure compliance with the laws and regulations administered or enforced by the Customs Service.

(2) *Availability of records.* During the course of any inquiry, audit, compliance assessment or investigation, a Customs officer, during normal business hours, and to the extent possible, at a time mutually convenient to the parties, may examine or cause to be examined, any relevant records, statements, declarations, or other documents by providing the person responsible for such records with notice, either electronically, orally or in writing, that describes the records with reasonable specificity.

(3) *Examination notice not exclusive.* In addition to, or in lieu of, issuing an examination notice under this section, Customs may issue a summons pursuant to § 163.7 and seek its enforcement, pursuant to §§ 163.11 and 163.12, to compel the furnishing of any records required by law or regulation.

#### § 163.7 Summons.

(a) *Who may be served.* During the course of any inquiry, audit, compliance assessment, or investigation initiated for the reasons set forth in § 163.6, the Commissioner of Customs or his designee, but no designee of the Commissioner below the rank of port director, regulatory audit field director, or special agent in charge, may, upon reasonable notice, issue a summons requiring certain persons to produce records or to give testimony or both.

Such summons may be issued to any person who:

(1) Imported or knowingly caused to be imported merchandise into the customs territory of the United States;

(2) Exported merchandise or knowingly caused merchandise to be exported to Canada or Mexico pursuant to the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301(4)), or to Canada during such time as the United States-Canada Free Trade Agreement was in force with respect to, and the United States applied that Agreement to, Canada;

(3) Transported, or stored merchandise that was or is carried or held under customs bond, or knowingly caused such transportation or storage;

(4) Filed a declaration, entry, or drawback claim with the Customs Service;

(5) Is an officer, employee, or agent of any person described in this paragraph; or

(6) Had possession, custody or care of records related to the importation or other activity described in this paragraph or;

(7) Customs otherwise deems proper.

(b) *Transcript of testimony under oath.* Testimony of any person taken pursuant to a summons may be taken under oath and when so taken shall be transcribed. When testimony is transcribed, a copy shall be made available on request to the witness unless for good cause shown the issuing officer determines under 5 U.S.C. 555 that a copy should not be provided. In that event, the witness shall be limited to inspection of the official transcript of the testimony. The testimony or transcript may be in the form of a written statement under oath provided by the person examined at the request of the Customs officer.

#### § 163.8 Contents of summons.

(a) *Summons for person.* Any summons issued under § 163.7 to compel appearance shall state:

(1) The name, title, and telephone number of the Customs officer before whom the appearance shall take place;

(2) The address where the person shall appear, not to exceed 100 miles from the place where the summons was served;

(3) The time of appearance; and

(4) The name, address, and telephone number of the Customs officer issuing the summons.

(b) *Summons of records.* If the summons requires the production of records, the summons, in addition to containing the information required by paragraph (a) of this section, shall describe the records with reasonable specificity.

#### § 163.9 Service of summons.

(a) *Who may serve.* Any Customs officer is authorized to serve a summons issued under § 163.7.

(b) *Method of service.*—(1) *Natural person.* Service upon a natural person shall be made by personal delivery.

(2) *Corporation, partnership, or association.* Service shall be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivery to an officer, managing or general agent, or any other agent authorized by appointment or law to receive service of process.

(c) *Certificate of service.* On the hearing of an application for the enforcement of a summons, the certificate of service signed by the person serving the summons is prima facie evidence of the facts it states.

#### § 163.10 Third-party recordkeeper.

(a) *Notice.* Except as provided by paragraph (f) of this section, if a summons issued under § 163.7 to a third-party recordkeeper requires the production of records or testimony relating to transactions of any person other than the person summoned, and the person is identified in the description of the records in the summons, notice of the summons shall be provided to the person identified in the description of the records contained in the summons.

(b) *Time of notice.* Notice of service of summons required by paragraph (a) of this section should be provided by the issuing officer immediately after service of summons is obtained under § 163.9, but in no event shall notice be given less than 10 business days before the date set in the summons for the examination of records or persons.

(c) *Contents of notice.* The issuing officer shall insure that any notice issued under this section includes a copy of the summons and contains the following information:

(1) That compliance with the summons may be stayed if written direction is given by the person receiving notice to the person summoned not to comply with the summons;

(2) That a copy of the direction not to comply and a copy of the summons shall be mailed by registered or certified mail to the person summoned at the addresses in the summons and to the issuing Customs officer; and

(3) That the actions under paragraphs (c)(1) and (c)(2) of this section shall be accomplished not later than the day before the day fixed in the summons as

the day upon which the records are to be examined or testimony given.

(d) *Service of notice.* The issuing officer shall serve the notice required by paragraph (a) of this section in the same manner as is prescribed in § 163.9 for the service of a summons, or by certified or registered mail to the last known address of the person entitled to notice.

(e) *Examination precluded.* If notice is required by this section, no record may be examined and no testimony may be taken before the date fixed in the summons as the date to examine the records or to take the testimony. If the owner, importer, consignee, or their agent, or any other person concerned issues a stay of the summons, no examination shall take place, and no testimony shall be taken, without the consent of the person staying compliance, or without an order issued by a U.S. district court.

(f) *Exceptions to notice* —(1) *Personal liability for duties, fees and taxes.* This section does not apply to any summons served on the person, or any officer or employee of the person, with respect to whose liability for duties, fees, and taxes the summons is issued.

(2) *Verification.* This section does not apply to any summons issued to determine whether or not records of the transactions of an identified person have been made or kept.

(3) *Court order.* Notice shall not be given if a U.S. district court determines, upon petition by the issuing Customs officer, that reasonable cause exists to believe giving notice may lead to an attempt:

- (i) To conceal, destroy, or alter relevant records;
- (ii) To prevent the communication of information from other persons through intimidation, bribery, or collusion; or,
- (iii) To flee to avoid prosecution, testifying, or production of records.

#### § 163.11 Enforcement of summons.

Whenever any person does not comply with a summons issued under § 163.7, the issuing officer may request the appropriate U.S. attorney to 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.

#### § 163.12 Failure to comply with court order; Penalties.

(a) *Monetary penalties.* The U.S. district court of the United States for any district in which a party who has been served with a Customs summons is found or resides or is doing business may order a party to comply with the summons. Upon the failure of a party to obey a court order to comply with a

Customs summons, the court may find such party in contempt, assess a monetary penalty, or do both.

(b) *Importations prohibited.* If a person fails to comply with a court order enforcing the summons and is adjudged guilty of contempt, the Commissioner of Customs, with the approval of the Secretary of the Treasury, for so long as that person remains in contempt:

(1) May prohibit importation of merchandise by that person, directly or indirectly, or for that person's account; and

(2) May withhold delivery of merchandise imported by that person, directly, or indirectly, or for that person's account.

(c) *Sale of merchandise.* If any person remains in contempt for more than 1 year after the Commissioner issues instructions to withhold delivery, the merchandise shall be considered abandoned, and shall be sold at public auction or otherwise disposed of in accordance with Subpart E of part 162.

#### § 163.13 Regulatory audit procedures.

(a) *Conduct of a Customs regulatory audit.* In conducting an audit under this section (which does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone or an inquiry), Customs auditors, except as provided in paragraph (b) of this section, shall:

(1) Provide notice, telephonically and in writing, to the person being audited, in advance of the audit with a reasonable estimate of the time required for the audit;

(2) Inform the party to be audited, in writing, before commencing an audit, of his right to an entrance conference at which time the purpose of the audit and the estimated termination date would be given;

(3) Provide a further estimate of such additional time if in the course of an audit it becomes apparent that additional time will be required;

(4) Schedule a compliance assessment (first phase of an audit) closing conference upon completion of the assessment to explain the preliminary results of the assessment;

(5) Write a compliance assessment report if, after the assessment, it is determined that no audit will be performed and all on-site work will end;

(6) At the conclusion of the compliance assessment, if it is determined that an audit is warranted, schedule and hold an audit entrance conference to explain the objectives, records requirements, and time required. If it is decided that an audit will be conducted, it will not be

necessary for a formal compliance assessment report to be prepared for the party being audited;

(7) Schedule a closing conference to explain preliminary results of the audit upon completion of the audit field work;

(8) Complete the formal written audit report within 90 days following the closing conference, provided paragraph (b) of this section is not applicable, unless the Director, Regulatory Audit Division, at Customs Headquarters provides written notice to the person being audited of the reason for any delay and the anticipated completion date; and

(9) After application of any exception contained in 5 U.S.C. 552, send a copy of the formal written audit report to the person audited within 30 days following completion of the report unless a formal investigation has commenced. All pertinent details should be explained at the compliance assessment closing conference and reiterated in the final audit report.

(b) *Exception to procedures.*

Paragraphs (a)(4) through (a)(6) and (a)(8) through (a)(9) and (c) of this section shall not apply after Customs commences a formal investigation with respect to the issue involved.

(c) *Petitioning procedures for the failure to conduct closing conference.* Except as provided in paragraph (b) of this section, if the estimated or actual termination date for an audit passes without a Customs auditor providing a closing conference to explain the results of the audit, the person being audited may petition in writing for such a conference to the Director, Regulatory Audit Division, at Customs Headquarters. Upon receipt of such a request, the Director shall provide for such a conference to be held within 15 days after the date of receipt.

#### § 163.14 Recordkeeping Compliance Program.

The Recordkeeping Compliance Program is a voluntary program under which certified recordkeepers are eligible for alternatives to penalties and may be entitled to greater mitigation of any recordkeeping penalty that might be assessed should they be unable to produce a requested record.

(a) *Certification procedures.*—(1) *Who may apply.* Any party described in § 163.2 (a) and (c), and any person or organization designated to maintain entry records for those entities previously listed may apply to participate in Customs Recordkeeping Compliance Program. Participation in Customs Recordkeeping Compliance Program is voluntary.

(2) *Where to apply.* Applications shall be submitted to the U.S. Customs Service, Field Director, Regulatory Audit Division, 909 S.E. First Street, Miami, Florida 33131. Applications shall be submitted in accordance with guidelines in the Recordkeeping Compliance Handbook.

(3) *Certification requirements.* A recordkeeper may be certified and enter into a recordkeeping agreement with Customs as a participant in the recordkeeping compliance program after meeting the general recordkeeping requirements established by Customs or after negotiating an alternative program suited to the needs of the recordkeeper and Customs. To be certified, a recordkeeper must be in compliance with Customs laws and regulations. Customs will take into account, the size and nature of the importing business, volume of imports and Customs workload constraints, prior to proceeding with any certification. In order to be certified, a recordkeeper is required to:

(i) Comply with the requirements set forth in the applicable Customs Recordkeeping Compliance Handbook;

(ii) Understand the legal requirements for recordkeeping, including the nature of the records required to be maintained and produced and the required time periods;

(iii) Have in place procedures to explain the recordkeeping requirements to those employees who are involved in the preparation, maintenance and production of required records;

(iv) Have in place procedures regarding the preparation and maintenance of required records, and the production of such records to Customs;

(v) Have designated a dependable individual or individuals to be responsible for recordkeeping compliance under the program whose duties include maintaining familiarity with the recordkeeping requirements of Customs;

(vi) Have a record maintenance procedure approved by Customs for original records, or, if approved by Customs, for alternative records or recordkeeping formats other than original records; and

(vii) Have procedures for notifying Customs of occurrences of variances to, and violations of, the requirements of the recordkeeping compliance program or negotiated alternative program, and for taking corrective action when notified by Customs of violations or problems regarding such program. The term "variance" means a deviation from the signed recordkeeping agreement that does not involve a failure to maintain or

produce records or a failure to maintain the requirements set forth in this paragraph. The term "violation" means a deviation from the signed agreement that involves a failure to maintain or produce records or a failure to maintain the requirements set forth in this paragraph.

(b) *Benefits of participation.*—(1) *Alternatives to penalties.* Participants in the program are eligible for alternatives to the recordkeeping penalties and to greater mitigation of any recordkeeping penalty the party might be assessed should they be unable to produce a requested entry record. If a certified participant does not produce a demanded entry record or information for a specific release or provide information by acceptable alternate means, Customs shall, in the absence of willfulness or repeated violations and in lieu of a monetary penalty, issue a written notice of violation to the party as described in paragraph (b)(2) of this section. Willful failure to produce records or repeated violations of the recordkeeping requirements with no attempt to correct deficiencies and/or a failure to exercise reasonable care in the maintenance of records or compliance with recordkeeping requirements may cause a certified recordkeeper to be removed from the program and may subject the recordkeeper to immediate penalty action for failing to produce records.

(2) *Contents of notice.* A notice of violation issued for failure to release or provide information to Customs by a participant in the recordkeeping compliance program shall:

(i) State that the recordkeeper has violated the recordkeeping requirements;

(ii) Indicate the record or information which was demanded and not produced;

(iii) Warn the recordkeeper that future failures to produce demanded records or information may result in the imposition of monetary penalties; and

(iv) Warn the recordkeeper that noncompliance could result in the removal of the participant from the recordkeeping compliance program.

(c) *Application, approval and certification process.*—(1) *Application procedures.* Applicants must follow the guidance and requirements contained in Customs Recordkeeping Compliance Handbook. This handbook may be obtained by downloading it from the Customs Electronic Bulletin Board (703-440-6155) or, by mail from the U.S. Customs Service, Office of Strategic Trade, Regulatory Audit Division, Recordkeeping Compliance Program,

909 S.E. First Street, Suite 710, Miami, FL 33131.

(2) *Action on applications.* The regulatory audit field office designee will process the application coordinating with the appropriate Customs headquarters and field officials. The regulatory audit field office will review and verify the information contained within the application and may perform an on-site verification prior to certification. If an on-site visit is warranted, the regulatory audit field office shall inform the applicant. If additional information is necessary to process the application, the applicant shall be notified. Customs requests for information not submitted with the application or additional explanation of details will cause delays in the certification of applicants. Requests by Customs for information will result in the suspension of the application certification process. Upon receipt of satisfactory information the certification process will recommence.

(3) *Approval and certification.* If, upon review, Customs determines that certification shall be granted, the applicable Regulatory Audit Field Director shall issue a certification with all the conditions stated.

#### **§ 163.15 Denial, suspension, revocation, and appeal procedures.**

(a) *General information.* Applicants and program participants may appeal the following decisions for administrative review:

(1) Denial of program participation application;

(2) Certification suspension; or

(3) Certification revocation.

(b) *Denials of Program Eligibility or Certification.*—(1) Applicants and participants may appeal Field Director application denials by filing an appeal with the Director, Office of Regulatory Audit, U.S. Customs Service, Washington, DC 20229.

(2) Appeals must be received by the Director, Office of Regulatory Audit within 30 days after notice of the denial.

(3) The Director, Office of Regulatory Audit will review the appeal and respond with a decision within 30 days. If a decision cannot be made within 30 days, the Director will advise the appellant of the reasons for the delay and further actions which will be carried out to resolve the matter and the planned completion date.

(c) *Certification suspension.*—(1) A Regulatory Audit Field Director may suspend the program participation for a certified recordkeeper or a certified recordkeeper's agent when Customs discovers that:

(i) The participant refuses or neglects to obey any proper Customs order or request for records;

(ii) The participant is convicted of acts which would constitute a felony or misdemeanor involving tax fraud, theft, smuggling or other crime involving Customs business;

(iii) The participant commits repeated violations of its recordkeeping compliance program agreement and fails to take corrective action;

(iv) The participant repeatedly fails to produce and maintain records;

(v) The participant's continuous bond has been terminated;

(vi) The participant has failed to file the biennial statement;

(vii) The participant fails to exercise reasonable care in the maintenance of records subject to the recordkeeping requirements; or

(viii) The participant fails to comply with Customs requirements generally.

(2) The suspension shall be effective on the date of issuance and shall remain in effect pending any appeal.

Suspension may immediately subject parties to penalties pursuant to § 163.6. Suspension of a certified recordkeeper's agent for a single certified recordkeeper shall also cause suspension for that certified recordkeeper. Suspension of a certified recordkeeper's agent who is an agent for multiple certified recordkeepers and has committed violations of the agreements for multiple clients may also cause suspension for all certified recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Customs will review the agent's recordkeeping procedures to determine whether such action is necessary. It shall be the duty of the agent to provide notification of the suspension to all certified recordkeepers and other recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Failure of an agent to provide such notification shall be grounds for revocation of an agent's certification for all certified recordkeepers. Customs shall publish in the **Federal Register** all agent suspensions.

(d) *Certification revocation.* (1) A Regulatory Audit Field Director may revoke the program certification of a certified recordkeeper or a certified recordkeeper's agent after appropriate notice when the following conditions are discovered:

(i) The certification privilege was obtained through fraud or mistake of fact;

(ii) The participant fails to take corrective action after notification of a suspension by Customs;

(iii) The participant fails to provide entry information or documents when requested by Customs on a recurring basis;

(iv) A certified recordkeeper's agent fails to notify all certified recordkeepers for whom it acts as an agent that it has been suspended for actions relating to one of the certified recordkeepers for whom it acts;

(v) The participant is convicted of or has committed acts which would constitute a felony, or a misdemeanor involving theft, smuggling, or a theft-connected crime; or

(vi) The participant fails to exercise reasonable care in the maintenance of records in accordance with the recordkeeping requirements.

(2) The revocation shall be effective on the date of issuance and shall remain in effect pending any appeal.

Revocation subjects parties to penalties pursuant to § 163.6. Revocation of a certified recordkeeper's agent for a single certified recordkeeper shall also cause revocation for that certified recordkeeper. Revocation of a certified recordkeeper's agent who is an agent for multiple certified recordkeepers and has committed violations of the agreements for multiple clients shall also cause revocation for all certified recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. It shall be the duty of the agent to provide notice of the revocation to all certified recordkeepers and other recordkeepers for whom the agent is acting or receiving reimbursement for acting as an agent. Customs shall publish in the **Federal Register** all agent revocations.

(e) *Procedures for revocation or suspension.* A Regulatory Audit Field Director may for due cause serve notice in writing to a certified recordkeeper suspending or revoking certification. Such notice shall advise the recordkeeper of the grounds for the action and shall inform the recordkeeper of the procedures which should be followed should the recordkeeper wish to appeal the suspension or revocation.

(f) *Appeal of revocation or suspension.* (1) A recordkeeper who has received a notice of revocation or suspension of certification in the recordkeeping compliance program may appeal the decision of the Field Director to the Director, Regulatory Audit Division at Customs Headquarters.

(2) The Director, Regulatory Audit Division at Customs Headquarters shall consider the allegations and responses made by the recordkeeper and shall render his decision, in writing, within 30 days.

## Appendix to Part 163—Interim (a)(1)(A) List

### List of Records Required for the Entry of Merchandise General Information

Section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508), sets forth the general record keeping requirements for Customs-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).

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 the Customs Service 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 the Customs Service 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 the Customs Service 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.”

The Customs Service 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 Customs 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 record keeping penalty may not be assessed if the listed information or records are transmitted to and retained by Customs.

*Other recordkeeping requirements:* The importing community and Customs 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 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 Customs officers. Failure to comply could result in the imposition of significant judicially imposed penalties and denial of import privileges.

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 Customs upon reasonable demand (whether or not Customs required its presentation at the time of entry). Information may be submitted to Customs at time of entry in a Customs 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 Customs reviews its requirements and continues to implement the Customs Modernization Act. When a record or information is filed with and retained by Customs, 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 title 19, Code of Federal Regulations, April 1, 1995 Edition, as amended by subsequent **Federal Register** notices.)

I. General list of records required for most entries. Information shown with

an asterisk (\*) is usually on the appropriate form and filed with and retained by Customs:

141.11–.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 Customs Form (CF) 3461 or CF 7533 or the regulations cited. Information shown with an asterisk (\*) is contained on the appropriate form and/or otherwise filed with and retained by Customs:

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 Customs Form 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 for 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 CF 5523

141.89, et al 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 (the Customs 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 CF 226 Information for vessel repairs, parts and equipment
- 7.8(a) CF 3229 Origin certificate for insular possessions
- 7.8(b) CF 3311 and Shipper'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, .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, .52 declaration by institution
- 10.53 declaration by importer
- USFWS Form 3–177, if appropriate
- 10.59, .63 Documents/ CF 5125/ for withdrawal of ship supplies
- 10.66, .67 Declarations for articles exported and returned
- 10.68, .69 Documents for commercial samples, tools, theatrical effects
- 10.70, .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–.102 Stipulation for government shipments and/or certification for government duty-free entries, etc.
- 10.107 Report for rescue and relief equipment
- 15 CFR 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– Documents, etc. required for entries of GSP merchandise
- 10.173, 10.175 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
- †[10.306 Evidence of direct shipment for CFTA]
- †[10.307 Documents, etc. required for entries under CFTA Certificate of origin of CF 353]
- [†CFTA provisions are suspended while NAFTA remains in effect. See part 181]
- 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–.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–.104i Cultural property declarations, statements and certificates of origin
- 12.105–.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–.127 Toxic substances: TSCA statements
- 12.130 Textiles & textile products
- Single country declaration
- Multiple country declaration
- VISA
- 12.132 NAFTA textile requirements
- 54.5 Declaration by importer of use of use of certain metal articles
- 54.6(a) Re-Melting Certificate
- 114 Carnets (serves as entry and bond document where applicable)
- 115 Container certificate of approval
- 128 Express consignments
- 128.21 \*Manifests with required information (filed by carrier)
- 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, .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:
- Textile Entries:* Quota charge Statement, if applicable including Style Number, Article Number and Product
- Steel Entries* 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 Customs Declaration for Mail, Invoice
- 145.12 Mail entry information (CF 3419 is completed by Customs but formal entry may be required)
- 148 Supporting documents for personal importations
- 151 subpart B Scale Weight
- 151 subpart B Sugar imports sampling/lab information (Chemical Analysis)
- 151 subpart C Petroleum imports sampling/lab information
- Out turn Report 24. to 25.—Reserved
- 151 subpart E Wool and Hair invoice information, additional documents
- 151 subpart F Cotton invoice information, additional documents
- 181.22 NAFTA Certificate of origin and supporting records
- 19 USC 1356k Coffee Form O (currently suspended)



### *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 CF  
214

Approved: December 30, 1996.

**Samuel H. Banks,**

*Acting Commissioner of Customs.*

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 97-10130 Filed 4-22-97; 8:45 am]

BILLING CODE 4820-02-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 19 CFR Part 351

#### **Countervailing Duties; Extension of Deadline To File Public Comments on Proposed Countervailing Duty Regulations**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Extension of deadline to file public comments on proposed countervailing duty regulations.

**SUMMARY:** The Department of Commerce ("the Department") is extending the deadline to file public comments on the proposed countervailing duty regulations containing changes resulting from the Uruguay Round Agreements Act (the URAA). The deadline for filing comments on the proposed regulations is now May 12, 1997.

**DATES:** The comment deadline has been extended to May 12, 1997.

**ADDRESSES:** Address written comments to the following: Robert S. LaRussa, Acting Assistant Secretary for Import Administration, Central Records Unit, Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, D.C. 20230. The address should also include the following: Attention: Proposed Regulations/Uruguay Round Agreements Act—Countervailing Duties. Each person submitting a comment is requested to include his or her name and address, and give reasons for any recommendation.

**FOR FURTHER INFORMATION CONTACT:** Jennifer A. Yeske at (202) 482-0189.

**SUPPLEMENTARY INFORMATION:** On February 26, 1997, the Department published proposed countervailing duty

regulations (62 FR 8818). We requested written comments from the public to be submitted by April 28, 1997. We have now extended the deadline for filing written comments to May 12, 1997.

#### **Proposed Regulations**

The proposed regulations are available on the Internet at the following address: [http://www.ita.doc.gov/import\\_admin/records/](http://www.ita.doc.gov/import_admin/records/)

In addition, the proposed regulations are available to the public on 3.5" diskettes, with specific instructions for accessing compressed data, at cost, and paper copies available for reading and photocopying in Room B-099 of the Central Records Unit. Any questions concerning file formatting, document conversion, access on Internet, or other file requirements should be addressed to Andrew Lee Beller, Director of Central Records, (202) 482-0866.

#### **Format and Number of Copies**

To simplify the processing and distribution of the public comments pertaining to the Department's proposed regulations, parties are encouraged to submit documents in electronic form accompanied by an original and three paper copies. All documents filed in electronic form must be on DOS formatted 3.5" diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. If possible, the Department would appreciate the documents being filed in either ASCII format or WordPerfect, and containing generic codes. The Department would also appreciate the use of descriptive file names.

Dated: April 17, 1997.

**Robert S. LaRussa,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97-10529 Filed 4-22-97; 8:45 am]

BILLING CODE 3510-DS-P

## ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[MN48-01-7268b; FRL-5699-2]

#### **Approval and Promulgation of Implementation Plan; Minnesota**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve a revision to the Minnesota State

Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revisions enable the State of Minnesota to implement and enforce the Federal general conformity requirements in the nonattainment or maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

**DATES:** Comments on this proposed action must be received by May 23, 1997.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR-18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the following address: EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. (Please telephone Michael G. Leslie at (312) 353-6680 before visiting the Region 5 office.)

**Authority:** 42 U.S.C. 7401-7671q.

Dated: February 12, 1997.

**David A. Ullich,**

*Regional Administrator.*

[FR Doc. 97-10506 Filed 4-22-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[DC010-5914b; MD033-7157b; FRL-5814-2]

#### **Approval and Promulgation of Air Quality Implementation Plans; District of Columbia and State of Maryland—1990 Base Year Emission Inventory for the Metropolitan Washington DC Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plans (SIPs) revisions submitted by the District of Columbia and the State of Maryland for the purpose of establishing 1990 ozone base year emission inventories for the Metropolitan Washington DC ozone nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the District's and State of Maryland's SIP revisions as a direct final rule without prior proposal