

§ 163.13

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maintain or produce records or a failure to meet the requirements set forth in this section.

(c) *Application review and approval and certification process*—(1) *Review of applications.* The Miami regulatory audit field office will process the application and will coordinate and consult, as may be necessary, with the appropriate Customs Headquarters and field officials. The Miami regulatory audit field office will review and verify the information contained in the application and may initiate an on-site verification prior to approval and certification. If an on-site visit is warranted, the Miami 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 for additional explanation of details will cause a delay in the application approval and certification of applicants and may result in the suspension of the application approval and certification process until the requested information is received by Customs.

(2) *Approval and certification.* If, upon review, Customs determines that the application should be approved and that certification should be granted, the Director of the Miami regulatory audit field office shall issue the certification with all the applicable conditions stated therein.

(d) *Alternatives to penalties*—(1) *General.* If a certified participant in the Recordkeeping Compliance Program does not produce a demanded entry record for a specific release or provide the information contained in the demanded entry record by acceptable alternate means, Customs shall, in lieu of a monetary penalty provided for in § 163.6(b), issue a written notice of violation to the person as described in paragraph (d)(2) of this section, provided that the certified participant is generally in compliance with the procedures and requirements of the program and provided that the violation was not a willful violation and was not a repeat violation. A willful failure to produce demanded entry records or repeated failures to produce demanded entry records may result in the

issuance of penalties under § 163.6(b) and removal of certification under the program (see § 163.13) until corrective action satisfactory to Customs is taken.

(2) *Contents of notice.* A notice of violation issued to a participant in the Recordkeeping Compliance Program for failure to produce a demanded entry record or information contained therein shall:

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

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

(iii) Warn the recordkeeper that future failures to produce demanded entry records or information contained therein may result in the imposition of monetary penalties and could result in the removal of the recordkeeper from the Recordkeeping Compliance Program.

(3) *Response to notice.* Within a reasonable time after receiving written notice under paragraph (d)(1) of this section, the recordkeeper shall notify Customs of the steps it has taken to prevent a recurrence of the violation.

§ 163.13 Denial and removal of program certification; appeal procedures.

(a) *General.* Customs may take, and applicants and participants may appeal and obtain administrative review of, the following decisions regarding the Recordkeeping Compliance Program provided for in § 163.12:

(1) Denial of certification for program participation in accordance with paragraph (b) of this section; and

(2) Removal of certification for program participation in accordance with paragraph (c) of this section.

(b) *Denial of certification for program participation*—(1) *Grounds for denial.* Customs may deny an application for certification for participation in the Recordkeeping Compliance Program for any of the following reasons:

(i) The applicant fails to meet the requirements set forth in § 163.12(b)(3);

(ii) A circumstance involving the applicant arises that would justify initiation of a certification removal action under paragraph (c) of this section; or

(iii) In the judgment of Customs, the applicant appears not to be in compliance with Customs laws and regulations.

(2) *Denial procedure.* If the Director of the Miami regulatory audit field office determines that an application submitted under §163.12 should not be approved and that certification for participation in the Recordkeeping Compliance Program should not be granted, the Director shall issue a written notice of denial to the applicant. The notice of denial shall set forth the reasons for the denial and shall advise the applicant of its right to file an appeal of the denial in accordance with paragraph (d) of this section.

(c) *Certification removal—(1) Grounds for removal.* The certification for participation in the Recordkeeping Compliance Program by a certified recordkeeper may be removed when any of the following conditions are discovered:

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

(ii) The program participant no longer has a valid bond;

(iii) The program participant fails on a recurring basis to provide entry records when demanded by Customs;

(iv) The program participant willfully refuses to produce a demanded or requested record;

(v) The program participant is no longer in compliance with the Customs laws and regulations, including the requirements set forth in §163.12(b)(3); or

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

(2) *Removal procedure.* If Customs determines that the certification of a program participant should be removed, the Director of the Miami regulatory audit field office shall serve the program participant with written notice of the removal. Such notice shall inform the program participant of the grounds for the removal and shall advise the program participant of its right to file an appeal of the removal in accordance with paragraph (d) of this section.

(3) *Effect of removal.* The removal of certification shall be effective immediately in cases of willfulness on the part of the program participant or when required by public health, interest, or safety. In all other cases, the removal of certification shall be effective when the program participant has received notice under paragraph (c)(2) of this section and either no appeal has been filed within the time limit prescribed in paragraph (d)(2) of this section or all appeal procedures thereunder have been concluded by a decision that upholds the removal action. Removal of certification may subject the affected person to penalties.

(d) *Appeal of certification denial or removal—(1) Appeal of certification denial.* A person may challenge a denial of an application for certification for participation in the Recordkeeping Compliance Program by filing a written appeal with the Director, Regulatory Audit Division, U.S. Customs Service, Washington, DC 20229. The appeal must be received by the Director, Regulatory Audit Division, within 30 calendar days after issuance of the notice of denial. The Director, Regulatory Audit Division, will review the appeal and will respond with a written decision within 30 calendar days after receipt of the appeal unless circumstances require a delay in issuance of the decision. If the decision cannot be issued within the 30-day period, the Director, Regulatory Audit Division, will advise the appellant of the reasons for the delay and of any further actions which will be carried out to complete the appeal review and of the anticipated date for issuance of the appeal decision.

(2) *Appeal of certification removal.* A certified recordkeeper who has received a Customs notice of removal of certification for participation in the Recordkeeping Compliance Program may challenge the removal by filing a written appeal with the Director, Regulatory Audit Division, U.S. Customs Service, Washington, DC 20229. The appeal must be received by the Director, Regulatory Audit Division, within 30 calendar days after issuance of the notice of removal. The Director, Regulatory Audit Division, shall consider the allegations upon which the removal

was based and the responses made thereto by the appellant and shall render a written decision on the appeal within 30 calendar days after receipt of the appeal.

APPENDIX TO PART 163—INTERIM
(a)(1)(A) LIST

*List of Records Required for the Entry of
Merchandise*

General Information

(1) Section 508 of the Tariff Act of 1930, as amended (19 U.S.C. 1508), sets forth the general recordkeeping 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).

(2) Section 509(a)(1)(A) of the Tariff Act of 1930, as amended by title VI of Public Law 103-182, commonly referred to as the Customs Modernization Act (19 U.S.C. 1509(a)(1)(A)), requires the production, within a reasonable time after demand by 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.”

(3) 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 recordkeeping penalty may not be assessed if the listed information or records are transmitted to and retained by Customs.

(4) *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.

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

*List of Records and Information Required for
the Entry of Merchandise*

The following records (which include, but are 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 their presentation at the time of entry). Information may be submitted to Customs at the 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 recordkeeping penalties, although the underlying backup or supporting information from which it is obtained may also be subject to the general record retention regulations and examination or summons pursuant to 19 U.S.C. 1508 and 1509. (All references, unless otherwise indicated, are to the current edition of title 19, Code of Federal Regulations, as amended by subsequent Federal Register documents.)

United States Customs Service, Treasury

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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 through 141.15 **Evidence of right to make entry (airway bill/bill of lading or *carrier certificate, etc.) when goods are imported on a common carrier**
- § 141.19 ***Declaration of entry (usually contained on the entry summary or warehouse entry)**
- § 141.32 **Power of attorney (when required by regulations)**
- § 141.54 **Consolidated shipments authority to make entry (if this procedure is utilized)**
- § 142.3 **Packing list (where appropriate)**
- § 142.4 **Bond information (except if 10.101 or 142.4(c) applies)**
- Parts 4, 18, 122, 123 *Vessel, Vehicle or Air Manifest (filed by the carrier)**

II. The following records or information are required by §141.61 on 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, 142.3a ***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, 141.86 **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**
- Part 141 Corrected Commercial Invoice**
- 141.86 (e) Packing List**

- 177.8 *Binding Ruling Identification Number (or a copy of the ruling)
- § 10.102 Duty Free Entry Certificate (9808.00.30009 HTS)
- § 10.108 Lease Statement
- IV. Documents/records or information required for entry of special categories of merchandise (the listed documents or information is only required for merchandise entered [or required to be entered] in accordance with the provisions of the sections of 19 CFR [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
- § 7.3(f) CF 3229 Origin certificate for insular possessions Shipper's and importer's declaration for insular possessions
- Part 10 Documents required for entry of articles exported and returned:
- §§ 10.1 through 10.6 Foreign shipper's declaration or master's certificate, declaration for free entry by owner, importer or consignee
- § 10.7 Certificate from foreign shipper for reusable containers
- § 10.8 Declaration of person performing alterations or repairs
Declaration for non-conforming merchandise
- § 10.9 Declaration of processing
- § 10.24 Declaration by assembler Endorsement by importer
- §§ 10.31, 10.35 Documents required for Temporary Importations Under Bond:
Information required, Bond or Carnet
- § 10.36 Lists for samples, professional equipment, theatrical effects
Documents required for Instruments of International Traffic:
- § 10.41 Application, Bond or TIR carnet
NOTE: additional 19 U.S.C. 1508 records: see § 10.41b(e)
- § 10.43 Documents required for exempt organizations
- § 10.46 Request from head of agency for 9808.00.10 or 9808.00.20 HTSUS treatment
Documents required for works of art
- § 10.48 Declaration of artist, seller or shipper, curator, etc.
- §§ 10.49, 10.52 Declaration by institution
- § 10.53 Declaration by importer
USFWS Form 3-177, if appropriate
- §§ 10.59, 10.63 Documents/CF 5125 for withdrawal of ship supplies
- §§ 10.66, 10.67 Declarations for articles exported and returned
- §§ 10.68, 10.69 Documents for commercial samples, tools, theatrical effects
- §§ 10.70, 10.71 Purebred breeding certificate
- § 10.84 Automotive Products certificate
- § 10.90 Master records and metal matrices: detailed statement of cost of production
- § 10.98 Declarations for copper fluxing material
- § 10.99 Declaration of non-beverage ethyl alcohol, ATF permit
- §§ 10.101 through 10.102 Stipulation for government shipments and/or certification for government duty-free entries, etc.
- § 10.107 Report for rescue and relief equipment
- 15 CFR part 301 Requirements for entry of scientific and educational apparatus
- § 10.121 Certificate from USIA for visual/auditory materials
- § 10.134 Declaration of actual use (When classification involves actual use)
- § 10.138 End Use Certificate
- §§ 10.171 through 10.178 Documents, etc. required for entries of GSP merchandise, GSP Declaration (plus supporting documentation)
- § 10.174 Evidence of direct shipment
- § 10.179 Certificate of importer of crude petroleum
- § 10.180 Certificate of fresh, chilled or frozen beef
- § 10.183 Civil aircraft parts/simulator documentation and certifications
- §§ 10.191 through 10.198 Documents, etc. required for entries of CBI merchandise, CBI declaration of origin (plus supporting information)
- § 10.194 Evidence of direct shipment
- § 10.199 Documents, etc. required for duty-free entry of spirituous beverages produced in Canada from CBI rum, declaration of Canadian processor (plus supporting information)
- § 10.216 AGOA Textile Certificate of Origin and supporting records
- § 10.226 CBTPA Textile Certificate of Origin and supporting records
- § 10.228 CBTPA Declaration of Compliance for brassieres
- § 10.236 CBTPA Non-textile Certificate of Origin and supporting records
- †[§ 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 through 12.31 Necessary permits from APHIS, FWS & foreign government

- certificates when required by the applicable regulation
- § 12.33 Chop list, proforma invoice and release permit from HHS
- § 12.34 Certificate of match inspection and importer's declaration
- § 12.43 Certificate of origin/declarations for goods made by forced labor, etc.
- § 12.61 Shipper's declaration, official certificate for seal and other 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 through 12.104i Cultural property declarations, statements and certificates of origin
- § 12.105 through 12.109 Pre-Columbian monumental and architectural sculpture and murals
- Certificate of legal exportation
- Evidence of exemption
- § 12.110 Pesticides, etc. notice of arrival
- §§ 12.118 through 12.127 Toxic substances: TSCA statements
- § 12.130 Textiles & textile products
- Single country declaration
- Multiple country declaration
- VISA
- § 12.132 NAFTA textile requirements
- § 12.140 Province of first manufacture, export permit number and fee status of softwood lumber from Canada
- § 54.5 Declaration by importer of use of certain metal articles
- § 54.6(a) Re-Melting Certificate
- Part 113, Appendix B—Bond to Indemnify Complainant Under Section 337, Tariff Act of 1930, as Amended
- Part 114 Carnets (serves as entry and bond document where applicable)
- Part 115 Container certificate of approval
- Part 128 Express consignments
- § 128.21 *Manifests with required information (filed by carrier)
- §§ 132.15, 132.17 Export certificates, respectively, for beef or sugar-containing products subject to tariff-rate quota.
- § 132.18 License, or written authorization, as applicable, for worsted wool fabric subject to tariff-rate quota
- § 132.23 Acknowledgment of delivery for mailed items subject to quota
- § 133.21(b)(6) Consent from trademark or trade name holder to import otherwise restricted goods
- §§ 134.25, 134.36 Certificate of marking; notice to repacker
- § 141.88 Computed value information
- § 141.89 Additional invoice information required for certain classes of merchandise including, but not limited to:
- 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 appraisal 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.)
- Part 148 Supporting documents for personal importations
- Part 151, subpart B Scale Weight
- Part 151, subpart B Sugar imports sampling/lab information (Chemical Analysis)
- Part 151, subpart C Petroleum imports sampling/lab information Out turn Report 24. to 25.—Reserved
- Part 151, subpart E Wool and Hair invoice information, additional documents
- Part 151, subpart F Cotton invoice information, additional documents
- § 181.22 NAFTA Certificate of origin and supporting records
- 19 U.S.C. 1356k 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

[T.D. 98-56, 63 FR 32946, June 16, 1998; as amended by T.D. 00-7, 65 FR 5431, Feb 4, 2000; T.D. 00-68, T.D. 00-67, 65 FR 59666, 59681, Oct. 5, 2000; T.D. 00-87, 65 FR 77816, Dec. 13, 2000; T.D. 01-17, 66 FR 9647, Feb. 9, 2001; T.D. 01-35, 66 FR 21667, May 1, 2001; T.D. 01-74, 66 FR 50541, Oct. 4, 2001; T.D. 02-36, 67 FR 46588, July 16, 2002; T.D. 02-59, 67 FR 62884, Oct. 9, 2002]

PART 171—FINES, PENALTIES, AND FORFEITURES

Sec.

171.0 Scope.

Subpart A—Application for Relief

171.1 Petition for relief.

171.2 Filing a petition.

171.3 Oral presentations seeking relief.