

*The International
Trade Compliance
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Experts for
130 years!*

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Importer's Recordkeeping Requirements

An importer's requirement to maintain records is not new. The Tariff Act of 1832 authorized Customs appraisers to examine any person under oath on *"any matter or thing which they may deem material in ascertaining the true value of any merchandise imported, and to require the production of any letters, accounts, or invoices, in his possession relating to the same..."* As international trade has become more complex, so too has the nature and scope of an importer's recordkeeping requirements.

What are "records"? Part 163 of the Customs Regulations defines "records" as any information made or normally kept in the ordinary course of business which pertains to the following activities:

- ⌚ Any importation, declaration or entry
- ⌚ The transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States
- ⌚ The filing of a drawback claim
- ⌚ The completion and signature of a NAFTA certificate
- ⌚ The collection and payment of fees and taxes to CBP
- ⌚ Any other activity required to be undertaken pursuant to laws or regulations administered by CBP

The Customs Modernization and Informed Compliance Act (the "Mod Act") (circa 1994) permitted CBP to implement many automation and electronic processes which, often times, caused document presentation to be waived at time of merchandise import. The importing community had a mistaken belief that once waived, maintenance and future presentation of associated records was also waived. Upon passage of the Mod Act, Congress required CBP to spell out to the trade community what constituted "records."

In 19 U.S.C. §1509(a)(1)(a) Congress required CBP to compile a list of "records" to be maintained. This has come to be known by the colloquial name *"the (a)(1)(a) list"*. It is found as an appendix to Part 163 of the Customs Regulations. It is extensive and very detailed. Don't panic! The crux of understanding this list is appreciating that it covers every possible contingency for every possible commodity entered under every possible type of CBP trade activity.

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Importer's Recordkeeping Requirements *Continued*

What an importer needs to fully understand about recordkeeping is this:

- ⌚ it has declared to CBP that it engaged in a transaction with a foreign seller
- ⌚ it has declared a value of the imported goods
- ⌚ it has provided an HS classification to the ten digit level
- ⌚ if applicable, it has declared that the goods are eligible for a preferential rate of duty based on either:
 - Chapter 98 provisions
 - Free Trade Agreement
 - Special Tariff Arrangement

Now, GO AND PROVE IT! So, the importer did submit commercial invoices, packing list and a bill of lading to CBP with the entry. That proves everything, doesn't it? Think about it; it "proves" nothing. It's the importer's records maintained in the normal course of business that go toward "proving" what these summary documents state about the transaction.

How about looking at payables records to see what the importer really paid to the foreign seller? How about looking at receiving records to verify the real quantity of merchandise imported? How about purchasing to see what the real price and quantity are supposed to be? How about engineering or the warehouse to see if the HS classification is correct?

In other words, the importer's record keeping requirements are not satisfied because the import manager has nicely organized, color coded and tabbed manila folders containing the document package that accompanied the broker's invoice. It is what everyone else in the company has in their files that support what the import manager has in his. And everyone must maintain these for a period of no less than five years. invoice, a packing list, an AES filing, or any other shipment related documents said about an export shipment.