§ 762.5 Reproduction of original records.

(a) The regulated person may maintain reproductions instead of the original records provided all of the requirements of paragraph (b) of this section are met.

(b) In order to maintain the records required by § 762.2 of this part, the regulated persons defined in § 762.1 of this part may use any photographic, photostatic, miniature photographic, micrographic, automated archival storage, or other process that completely, accurately, legibly and durably reproduces the original records (whether on paper, microfilm, or through electronic digital storage techniques). The process must meet all of the following requirements, which are applicable to all systems:

1. The system must be capable of reproducing all records on paper.

2. The system must record and be able to reproduce all marks, information, and other characteristics of the original record, including both obverse and reverse sides of paper documents in legible form.

3. When displayed on a viewer, monitor, or reproduced on paper, the records must exhibit a high degree of legibility and readability. (For purposes of this section, legible and legibility mean the quality of a letter or numeral that enable the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readable and readability mean the quality of a group of letters or numerals being recognized as complete words or numbers.)

4. The system must preserve the initial image (including both obverse and reverse sides of paper documents) and record all changes, who made them and when they were made. This information must be stored in such a manner that none of it may be altered once it is initially recorded.

5. The regulated person must establish written procedures to identify the individuals who are responsible for the operation, use and maintenance of the system.

6. The regulated person must establish written procedures for inspection and quality assurance of records in the
§ 762.6 Period of retention.

(a) Five year retention period. All records required to be kept by the EAR must be retained for five years from the latest of the following times:

(1) The export from the United States of the item involved in the transaction to which the records pertain or the provision of financing, transporting or other service for or on behalf of end-users of proliferation concern as described in §736.2(b)(7) and 744.6 of the EAR;

(2) Any known reexport, transshipment, or diversion of such item;

(3) Any other termination of the transaction, whether formally in writing or by any other means; or

(4) In the case of records pertaining to transactions involving restrictive trade practices or boycotts described in part 760 of the EAR, the date the regulated person receives the boycott-related request or requirement.

(b) Destruction or disposal of records. If the Bureau of Industry and Security or any other government agency makes a formal or informal request for a certain record or records, such record or records may not be destroyed or disposed of without the written authorization of the agency concerned. This prohibition applies to records pertaining to voluntary disclosures made to BIS in accordance with §764.5(c)(4)(ii) and other records even if such records have been retained for a period of time exceeding that required by paragraph (a) of this section.


EDITORIAL NOTE: The following amendment could not be incorporated into §762.6 because of an inaccurate amendatory instruction: At 72 FR 48532, Aug. 6, 2007, §762.6(b) is amended by removing the citation “§765.5(c)(4)(ii)” and adding “§764.5(c)(4)(ii)” in its place.

§ 762.7 Producing and inspecting records.

(a) Persons located in the United States. Persons located in the United States may be asked to produce records that are required to be kept by the EAR, or any license, order, or authorization issued thereunder and to make them available for inspection and copying by any authorized agent, official, or employee of the Bureau of Industry and Security, the U.S. Customs Service, or any other agency of the U.S. Government, without any