

Any person who exports goods to Canada or Mexico for which a Certificate of Origin was completed and signed pursuant to the North American Free Trade Agreement must also maintain records in accordance with part 181 of this chapter.

(2) *USMCA*. Any exporter or producer who completes a certification of origin or a producer who provides a written representation for a good exported from the United States to Canada or Mexico pursuant to the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) must maintain records in accordance with part 182 of this chapter.

(3) *Kimberley Process Certification Scheme*. Any U.S. person (see definition in §12.152(b)(5)) who exports from the United States any rough diamonds must retain a copy of the Kimberley Process Certificate accompanying each shipment for a period of at least five years from the date of exportation. See 19 CFR 12.152(f)(3). Any U.S. person who exports from the United States any rough diamonds and does not keep records in this time frame may be subject to penalties under 19 U.S.C. 3907.

(d) *Recordkeeping required for customs brokers*. Each customs broker must also make and maintain records and make such records available in accordance with part 111 of this chapter.

(e) *Recordkeeping not required for certain 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.

[T.D. 98-56, 63 FR 32946, June 16, 1998, as amended by USCBP-2012-0022, 78 FR 40630, July 8, 2013; CBP Dec. 21-10, 86 FR 35582, July 6, 2021]

§ 163.3 Entry records.

Any person described in §163.2(a) with reference to an import transaction shall be prepared to produce or transmit to Customs, in accordance with §163.6(a), any entry records which may be demanded by Customs. If entry records submitted to Customs not pur-

suant to a demand are returned by Customs, or if production of entry records at the time of entry is waived by Customs, such person shall continue to maintain those entry records in accordance with this part. Entry records which are normally kept in the ordinary course of business must be maintained by such person in accordance with this part whether or not copies thereof are retained by Customs.

§ 163.4 Record retention period.

(a) *General*. Except as otherwise provided in paragraph (b) of this section, any record required to be made, kept, and rendered for examination and inspection by Customs under §163.2 or any other provision of this chapter 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.

(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 calendar days from the end of the release or conditional release period, whichever is later, or, if a demand for return to Customs custody has been issued, for a period of 60 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place.

(3) A consignee who is not the owner or purchaser and who appoints a customs broker shall keep a record pertaining to merchandise covered by an informal entry for 2 years from the date of the informal entry.

(4) Records pertaining to articles that are admitted free of duty and tax pursuant to 19 U.S.C. 1321(a)(2) and §§10.151 through 10.153 of this chapter, and carriers' records pertaining to manifested cargo that is exempt from entry under the provisions of this chapter, shall be kept for 2 years from the date of the entry or other activity which required creation of the record.

(5) If another provision of this chapter sets forth a retention period for a specific type of record that differs from

the period that would apply under this section, that other provision controls.

§ 163.5 Methods for storage of records.

(a) *Original records.* All persons listed in § 163.2 must maintain all records required by law and regulation for the required retention periods and as original records, whether paper or electronic, unless alternative storage methods have been adopted in accordance with paragraph (b) of this section. The records, whether in their original format or under an alternative storage method, must be capable of being retrieved upon lawful request or demand by CBP.

(b) *Alternative method of storage—*(1) *General.* Any of the persons listed in § 163.2 may maintain any records, other than records required to be maintained as original records under laws and regulations administered by other Federal government agencies, in an alternative format, provided that the person gives advance written notification of such alternative storage method to the Regulatory Audit, U.S. Customs and Border Protection, 2001 Cross Beam Dr., Charlotte, North Carolina 28217, and provided further that the Director of Regulatory Audit, Charlotte office does not instruct the person in writing as provided herein that certain described records may not be maintained in an alternative format. The written notice to the Director of Regulatory Audit, Charlotte office must be provided at least 30 calendar days before implementation of the alternative storage method, must identify the type of alternative storage method to be used, and must state that the alternative storage method complies with the standards set forth in paragraph (b)(2) of this section. If an alternative storage method covers records that pertain to goods under CBP seizure or detention or that relate to a matter that is currently the subject of an inquiry or investigation or administrative or court proceeding, the appropriate CBP office may instruct the person in writing that those records must be maintained as original records and therefore may not be converted to an alternative format until specific written authorization is received from that CBP office. A written instruction to a person under

this paragraph may be issued during the 30-day advance notice period prescribed in this section or at any time thereafter, must describe the records in question with reasonable specificity but need not identify the underlying basis for the instruction, and shall not preclude application of the planned alternative storage method to other records not described therein.

(2) *Standards for alternative storage methods.* Methods commonly used in standard business practice for storage of records include, but are not limited to, machine readable data, CD ROM, and microfiche. Methods that are in compliance with generally accepted business standards will generally satisfy CBP requirements, provided that the method used allows for retrieval of records requested within a reasonable time after the request and provided that adequate provisions exist to prevent alteration, destruction, or deterioration of the records. The following standards must be applied by recordkeepers when using alternative storage methods:

(i) Operational and written procedures are in place to ensure that the imaging and/or other media storage process preserves the integrity, readability, and security of the information contained in the original records. The procedures must include a standardized retrieval process for such records. Vendor specifications/documentation and benchmark data must be available for CBP review;

(ii) There is an effective labeling, naming, filing, and indexing system;

(iii) Except in the case of packing lists (*see* § 163.4(b)(2)), entry records must be maintained by the importer in their original formats for a period of 120 calendar days from the end of the release or conditional release period, whichever is later, or, if a demand for return to CBP custody has been issued, for a period of 120 calendar days either from the date the goods are redelivered or from the date specified in the demand as the latest redelivery date if redelivery has not taken place. Customs brokers who are not serving as