



## Importer Record Keeping Requirements

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*The Customs Modernization and Informed Compliance Act (The Mod Act) imposes on importers the responsibility to exercise "reasonable care" to keep themselves informed of the regulations under which they import, and outlines record keeping requirements for importer.*

Importers can exercise "reasonable care" in various ways.

1. Seeking guidance from Customs and Border Protection (CBP) through the pre-importation or formal ruling program.
2. Consulting with a Customs broker, a Customs consultant, a public accountant, or an attorney.
3. Using in-house employees such as counsel, a Customs administrator, or if valuation is an issue, a corporate controller, who have experience and knowledge of customs laws, regulations, and procedures.
4. When appropriate, obtaining analyses from accredited labs and gaugers for determining technical qualities of an imported product.

Under the Mod Act, there are established records which importers are required to keep. CBP can impose substantial penalties on importers for failure to properly maintain the records required. The penalties established under the Mod Act for failure to maintain records can run up to as high as 75% of the value of the transaction involved or \$100,000. The records which you, as an importer, are required to keep in addition to any records which we as a customs broker keep, as a consequence of our preparing a customs entry on your behalf are listed in the "(a)(1)(A)" list pursuant to section 1509 of section 19 USC. The records include but are not limited to every document involved with your transaction. These records might be hard copy or computer-generated records, and can include copies of purchase orders and other communications between you and your supplier, as well as proof of payment to your supplier. In the case of shipments where duty free exemptions have been claimed under GSP, NAFTA, or other provisions, failure to present evidence of right to make claim under these provision, when requested by CBP, will result in CBP liquidating or re-liquidating the shipment as dutiable.

The significance of the law is the penalty provisions, which provide for extremely harsh penalties for failure to comply.

We urge all of our clients to look closely at the records you are currently maintaining, and the systems you have in place to maintain those records. It is also advisable to review the links you have or might need to establish between yourself and other departments within your company that might be maintaining records of their own, and which you also might need to have a copy of for your import file.

We have prepared the attached "Importer Information Sheet," which we ask that you take the time to fill out and scan, fax, or mail back to us. The form will help you to ask and answer some basic housekeeping questions that you need to know about your import operations. The effort of completing the form and having it on file in your records could also serve as evidence to CBP that you have made efforts within your firm to achieve "reasonable care". Additionally, it will help us to possibly pinpoint areas that might need further discussion between us to avoid future Customs problems.

*Should you have further questions please feel free to contact us.*