

Supporting Statement
Customs and Border Protection Recordkeeping Requirements
1651-0076

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The North American Free Trade Agreement Implementation Act, Title VI, known as the Customs Modernization Act (Mod Act) amended Title 19 U.S.C. 1508, 1509 and 1510 by revising Customs and Border Protection (CBP) laws related to recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. Specifically, the Mod Act expanded the list of parties subject to CBP recordkeeping requirements; distinguished between records which pertain to the entry of merchandise and financial records needed to substantiate the correctness of information contained in entry documentation; and identified a list of records which must be maintained and produced upon request by CBP. The information and records are used by CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods. The Mod Act recordkeeping requirements are provided for by 19 CFR 163. Instructions are available at:
<http://www.cbp.gov/document/publications/recordkeeping>

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

These recordkeeping requirements are needed to substantiate the correctness of information contained in entry documentation. The information and records are used by CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods. Failure to have correct and accurate information could result in the wrong rate of duties, taxes and fees being assessed. In addition to the monetary impact, health and safety issues, circumvention of trade agreements, inaccurate trade statistics and in general, non-compliance with U.S. trade laws could occur.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g.**

permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The regulations specifically provide that importing parties, brokers and drawback claimants shall retain records in original format. When the format is electronic this is the same format in which it shall be retained for the recordkeeping period. Alternative storage methods (CD ROM, machine readable data, microfiche, etc.) for storing hard copy records by the trade community is permitted and the simplicity of procedures actually encourages alternate storage of records. This alternative storage method is for companies that wish to retain the original information in a different format than when initially submitted or recorded. It is estimated that approximately 40 percent of respondents use alternate electronic record storage methods.

Instructions and guidance for complying with these recordkeeping requirements are accessible at <http://www.cbp.gov/document/publications/recordkeeping>.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is not duplicated in any other place or any other form.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The impact on small businesses was minimized as much as possible.

- 6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Each shipment is subject to a duty rate and other requirements based on individual shipments of imported goods. Unless the supporting documentation for each shipment, declaration or claim can be verified at the time of entry or at some later date, the wrong rate of duties or taxes and fees would be assessed. In addition to the duty impact, health and safety issues, circumvention of trade agreements, inaccurate trade statistics, and non-compliance with U.S. trade laws would occur.

- 7. Explain any special circumstances.**

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.5(d)(2).

- 8. If applicable, provide a copy and identify the date and page number of**

publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Public comments were solicited through a Federal Register notice dated August 6, 2015 (Volume 80, Page 46995) on which no comments were received, and on November 4, 2015 (Volume 80, Page 68328) on which no comments have been received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no offer of a monetary or material value for the information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

All data submitted and entered into ACE is subject to and protected by the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. A PIA for the Automated Commercial Environment (ACE) dated July 31, 2015, and a SORN for the Import Information System, dated August 17, 2015 (Volume 80, Page 49256) will be included in this ICR.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information.

| INFORMATION COLLECTION | TOTAL ANNUAL BURDEN HOURS | NO. OF RECORDKEEPERS | NO. OF RESPONSES PER RESPONDENT | TOTAL RESPONSES/ RECORDKEEPING | TIME PER RECORDKEEPER |
|------------------------|---------------------------|----------------------|---------------------------------|--------------------------------|-----------------------|
| Mod. Act Recordkeeping | 5,677,360 | 5,459 | 1 | 5,459 | 1,040 hours |

Public Cost

The estimated cost to the respondents is \$167,255,026. This is based on the estimated burden hours (5,677,360) multiplied by (x) the average loaded hourly wage rate for importers (\$29.46). CBP calculated this loaded wage rate by multiplying the Bureau of Labor Statistics' (BLS) 2014 median hourly wage rate for Cargo and Freight Agents (\$19.89), which CBP assumes best represents the wage for importers, by the ratio of BLS' average 2014 total compensation to wages and salaries for Office and Administrative Support occupations (1.4813), the assumed occupational group for importers, to account for non-salary employee benefits.^{1,2}

13. Provide an estimate of the total annual cost burden to respondents or record-keepers resulting from the collection of information.

The costs for hard drives, printing, filing cabinets, cloud storage, and backup would be \$101,530 per year. The itemized costs are as follows: \$1,000 for two 10 TB hard drives (\$500 per hard drive); \$1,071 for 5 filing cabinets (\$214 per filing cabinet); \$97,821.60 annual for cloud storage (\$8,151.80 per month); \$1,637.7 for printing (5,459 frame for 10 pages each at \$.03 per page).

14. Provide estimates of annualized cost to the Federal Government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

The estimated annual cost to the Federal Government associated with the review of these records is \$1,984,246. This is based on the time spent per record keeper (65 hours) x number of respondents validated (10% of 5,459 = 546) = 35,490 hours multiplied by (x) the average hourly loaded rate for a general CBP employee (\$55.91)³ = \$1,984,246.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

There is no change to the burden hours or to the recordkeeping requirements, however CBP requests to change the name of this information collection from Customs Modernization Act Recordkeeping Requirements to Customs and Border Protection Recordkeeping Requirements.

16. For collection of information whose results will be published, outline plans

for tabulation, and publication.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate.

There is no form involved with this information collection.

18. “Certification for Paperwork Reduction Act Submissions.”

CBP does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.

¹ Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, “May 2014 National Occupational Employment and Wage Estimates, United States- Median Hourly Wage by Occupation Code: 43-5011.” Updated March 25, 2015. Available at <http://www.bls.gov/oes/2014/may/oes435011.htm>. Accessed June 15, 2015.

² The total compensation to wages and salaries ratio is equal to the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of the total compensation cost per hour worked for Office and Administrative Support occupations (24.66) divided by the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of wages and salaries cost per hour worked for the same occupation category (16.6475). Source of total compensation to wages and salaries ratio data: U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. *Employer Costs for Employee Compensation Historical Listing March 2004 – December 2015*, “Table 3. Civilian workers, by occupational group: employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004-2015 by Respondent Type: Office and administrative support occupations.” June 10, 2015. Available at <http://www.bls.gov/ncs/ect/sp/ececqrtn.pdf>. Accessed June 15, 2015.

³ CBP bases this wage on the salary and benefits of the national average of general, non-CBP Officer/frontline CBP positions, which is equal to a GS-12, Step 5. Source: Email correspondence with CBP’s Office of Administration on June 25, 2015.