

Supporting Statement
Importers of Merchandise Subject to Actual Use Provisions
1651-0032

A. 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.**

In accordance with 19 CFR 10.137, importers of goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) are required to maintain detailed records to establish that these goods were actually used as contemplated by the law, and to support the importer's claim for a free or reduced rate of duty. The importer shall maintain records of use or disposition for a period of three years from the date of liquidation of the entry, and the records shall be available at all times for examination and inspection by CBP.

The collection of information is supplemental to importer information about goods subject to the actual use provisions of the Harmonized Tariff Schedule of the United States (HTSUS) and pursuant to section 10.137 of title 19 of the Code of Federal Regulations (CFR) (19 CFR 10.137).

Importers of goods subject to 19 CFR 10.137 Actual Use Provisions are required to show the imported item/merchandise:

1. Is not on an exclusion list;
2. Complies with provisions of the law; and
3. Meets the required actual use provisions laid out in law.

This information is collected from members of the trade community who are familiar with CBP regulations.

- 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.**

Proof of use is required if the importer is to obtain the benefit of the actual use provision as explained in 19 CFR 10.137. If the importer does not have proof of actual use, the entry will be dutiable. The actual use provisions are a benefit to respondents.

All importations and entries of goods/merchandise are required to be accompanied by the CBP Form 7501- Entry Summary, subject to review and verification. In order to determine whether importers have abided by the rules dictating when a reduced or duty-free benefit can be applied, per the HTSUS codes claimed. The Importer of Record (IOR) or the authorized party to provide the accurate and detailed information or records requested, showing the actual use or disposition of the imported merchandise.

CBP collects information for importers of goods subject to the actual use provisions of Harmonized Tariff Schedule ,which requires the importer to maintained detailed records to establish that the goods are actually used as examined by law to support the importer's claim for a free or reduced rate if duty. The records shall be available at all times for CBP examination.

- 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.**

This information can be submitted electronically via the Document Image System into the Automated Commercial Environment (ACE). CBP does not have a standard form for the collection of this information and each port/Center has discretionary authority for the collection of the information in accordance with CFRs and their own SOPs aligned to the commodity being imported.

If additional information is requested, CBP enters the supplementary information into the Automated Commercial Environment (ACE) via the Document Image System (DIS). Importers/Filers with access to ACE via the ACE Portal, submit information directly using the DIS to upload their supporting information so that it can be referenced to the 7501 for the subject merchandise.

- 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.**

This information collection does not have an impact on small businesses or other small entities.

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

Since each entry is a separate transaction, importers could not import goods free of duty if this information was collected less frequently. CBP can retrieve the information by the entry number, which is possible to identify the company's name, importer and consignee.

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 two Federal Register notices published on May 16, 2022 (87 FR 29757) on which no comments were received, and on September 30, 2022 (87 FR 59447) 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 this information collection.

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

A PIA for ACE, dated July 31, 2015, and a SORN for Import Information System, dated July 26, 2016 (Vol. 81, Page 48826), will be included in this ICR. There are no assurances of confidentiality associated with this information collection. No PII is collected as part of this information collection. However, once entered into ACE and associated with an Entry Summary, information can be retrieved by entry number, which is linked to the company name and importer/consignee name and address. PII is NOT collected pursuant to the requirements of OMB Collection No. 1651-0032.

PIA coverage is provided by DHS/CBP/PIA-003 - Automated Commercial Environment (ACE), which outlines the use of ACE to facilitate imports and exports, including the use of Importers of Merchandise Subject to Actual Use

Provisions.

SORN coverage is provided under DHS/CBP-001 Import Information System, August 17, 2015, 80 FR 49256, which describes CBP's collection and maintenance of records on all commercial goods imported into the U.S., in an effort to facilitate the flow of legitimate shipments.

The Department's full list of system of records notices can be found on the Department's website at <http://www.dhs.gov/system-records-notices-sorns>

- 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 RESPONDENTS	NO. OF RESPONSES PER RESPONDENT	TOTAL RESPONSES	TIME PER RESPONSE
Importers Subject to Actual Use Provision Recordkeeping	13,000	12,000	1	12,000	65 minutes (1.0833) hours

Public Cost

The estimated cost to the respondents is \$452,530. This is based on the estimated burden hours (13,000) multiplied by the average loaded hourly wage rate for importers (\$34.81). CBP calculated this loaded wage rate by first multiplying the Bureau of Labor Statistics' (BLS) 2021 median hourly wage rate for Cargo and Freight Agents (\$22.55), which CBP assumes best represents the wage for importers, by the ratio of BLS' average 2021 total compensation to wages and salaries for Office and Administrative Support occupations (1.4819), the assumed occupational group for brokers, to account for non-salary employee benefits.¹ CBP assumes an annual growth rate of 4.15% based on the prior

¹ Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, "May 2021 National Occupational Employment and Wage Estimates United States." Updated March 31, 2022. Available at

year's change in the implicit price deflator, published by the Bureau of Economic Analysis.

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

CBP estimates that each respondent will maintain two pages of records related to this information collection, at a printing cost of \$0.05 per page. CBP believes that the cost to store these documents is negligible. As such, CBP estimates that a respondent will incur an average of \$0.10 in printing expenses associated with this collection's recordkeeping requirement (= two documents multiplied by (x) \$0.05 per page). The total annual recordkeeping cost to respondents is \$1,200. This is based on the estimated number of respondents (12,000) multiplied by (x) the average printing cost (\$0.10).

There are no capital, start-up or maintenance costs associated with this information collection.

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 \$246,240. This is based on the number of responses that must be reviewed (12,000) multiplied by the time burden to review and process each response (0.25 hours) = 3,000 hours multiplied by the average hourly loaded rate for a CBP Trade and Revenue employee ($\$82.08^2$) = \$246,240.

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

https://www.bls.gov/oes/current/oes_nat.htm. Accessed May 25, 2022. The total compensation to wages and salaries ratio is equal to the calculated average of the 2021 quarterly estimates (shown under Q01, Q02, Q03, Q04) of the total compensation cost per hour worked for Office and Administrative Support occupations (\$29.6125) divided by the calculated average of the 2021 quarterly estimates (shown under Q01, Q02, Q03, Q04) of wages and salaries cost per hour worked for the same occupation category (\$19.9825). Source of total compensation to wages and salaries ratio data: U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. "ECEC Civilian Workers - 2004 to Present." March 2022. Available at <https://www.bls.gov/web/ecec.supp.toc.htm>. Accessed May 25, 2022.

² CBP bases this wage on the FY 2022 salary and benefits of the national average of CBP Trade and Revenue positions, which is equal to a GS-12, Step 10. Source: Email correspondence with CBP's Office of Finance on June 27, 2022.

There has been no increase or decrease in the estimated annual burden hours previously reported for this information collection. There are no changes to this information collection.

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 associated with this information so it would not be appropriate to display the expiration date.

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.