PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 506, 42 Stat. 968. That section was superseded by section 507 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision relative to the allowance of tare, prohibiting any allowance for draught, was contained in R.S. § 2898, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1988—Pub. L. 100–418 designated existing provision as subsec. (a), substituted ''(except as otherwise provided in this section) there shall not be'' for ''in no case shall there be'', and added subsec. (b).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1902(b) of Pub. L. 100–418, as amended by Pub. L. 100–647, title IX, § 9001(a)(18), Nov. 10, 1988, 102 Stat. 3808, provided that: ''The amendment made by this section [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1988.''

## § 1508. Recordkeeping

### (a) Requirements

Any—

(1) owner, importer, consignee, importer of record, entry filer, or other party who—

(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) agent of any party described in paragraph (1); or

(3) person whose activities require the filing of a declaration or entry, or both;

shall make, keep, and render for examination and inspection records (which for purposes of this section include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data) which—

(A) pertain to any such activity, or to the information contained in the records required by this chapter in connection with any such activity; and

(B) are normally kept in the ordinary course of business.

### (b) Exportations to NAFTA countries

#### (1) Definitions

As used in this subsection—

(A) The term ''associated records'' means, in regard to an exported good under paragraph (2), records associated with—

(i) the purchase of, cost of, value of, and payment for, the good;

(ii) the purchase of, cost of, value of, and payment for, all material, including indirect materials, used in the production of the good; and

(iii) the production of the good.

For purposes of this subparagraph, the terms ''indirect material'', ''material'', ''preferential tariff treatment'', ''used'', and ''value'' have the respective meanings given them in articles 415 and 514 of the North American Free Trade Agreement.

(B) The term ''NAFTA Certificate of Origin'' means the certification, established under article 501 of the North American Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

#### (2) Exports to NAFTA countries

##### (A) In general

Any person who completes and signs a NAFTA Certificate of Origin for a good for which preferential treatment under the North American Free Trade Agreement is claimed shall make, keep, and render for examination and inspection all records relating to the origin of the good (including the Certificate or copies thereof) and the associated records.

##### (B) Claims for certain waivers, reductions, or refunds of duties or for credit against bonds

###### (i) In general

Any person that claims with respect to an article—

(I) a waiver or reduction of duty under the eleventh paragraph of section 1311 of this title, section 1312(b)(1) or (4) of this title, section 1562(2) of this title, or the proviso preceding the last proviso to section 81c(a) of this title;

(II) a credit against a bond under section 1312(d) of this title; or

(III) a refund, waiver, or reduction of duty under section 1313(n)(2) or (*o*)(1) of this title;

must disclose to the Customs Service the information described in clause (ii).

###### (ii) Information required

Within 30 days after making a claim described in clause (i) with respect to an article, the person making the claim must disclose to the Customs Service whether that person has prepared, or has knowledge that another person has prepared, a NAFTA Certificate of Origin for the article. If after such 30-day period the person making the claim either—

(I) prepares a NAFTA Certificate of Origin for the article; or

(II) learns of the existence of such a Certificate for the article;

that person, within 30 days after the occurrence described in subclause (I) or (II), must disclose the occurrence to the Customs Service.

###### (iii) Action on claim

If the Customs Service determines that a NAFTA Certificate of Origin has been prepared with respect to an article for which a claim described in clause (i) is made, the Customs Service may make such adjustments regarding the previous customs treatment of the article as may be warranted.

#### (3) Exports under the Canadian agreement

Any person who exports, or who knowingly causes to be exported, any merchandise to

Canada during such time as the United States-Canada Free-Trade Agreement is in force with respect to, and the United States applies that Agreement to, Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to the exportations.

**(c) Period of time**

The records required by subsections (a) and (b) of this section shall be kept for such periods of time as the Secretary shall prescribe; except that—

(1) no period of time for the retention of the records required under subsection (a) or (b)(3) of this section may exceed 5 years from the date of entry, filing of a reconciliation, or exportation, as appropriate;

(2) the period of time for the retention of the records required under subsection (b)(2) of this section shall be at least 5 years from the date of signature of the NAFTA Certificate of Origin; and

(3) records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.

**(d) Limitation**

For the purposes of this section and section 1509 of this title, a person ordering merchandise from an importer in a domestic transaction does not knowingly cause merchandise to be imported unless—

(1) the terms and conditions of the importation are controlled by the person placing the order; or

(2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with knowledge that they will be used in the manufacture or production of the imported merchandise.

**(e) Subsection (b) penalties**

**(1) Relating to NAFTA exports**

Any person who fails to retain records required by paragraph (2) of subsection (b) of this section or the regulations issued to implement that paragraph shall be liable for—

(A) a civil penalty not to exceed $10,000; or

(B) the general recordkeeping penalty that applies under the customs laws;

whichever penalty is higher.

**(2) Relating to Canadian agreement exports**

Any person who fails to retain the records required by paragraph (3) of subsection (b) of this section or the regulations issued to implement that paragraph shall be liable for a civil penalty not to exceed $10,000.

**(f) Certificates of Origin for goods exported under the United States-Chile Free Trade Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term ''records and supporting documents'' means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) if applicable, the purchase, cost, and value of, and payment for, all materials, including recovered goods, used in the production of the good; and

(iii) if applicable, the production of the good in the form in which it was exported.

**(B) Chile FTA Certificate of Origin**

The term ''Chile FTA Certificate of Origin'' means the certification, established under article 4.13 of the United States-Chile Free Trade Agreement, that a good qualifies as an originating good under such Agreement.

**(2) Exports to Chile**

Any person who completes and issues a Chile FTA Certificate of Origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the Certificate or copies thereof).

**(3) Retention period**

Records and supporting documents shall be kept by the person who issued a Chile FTA Certificate of Origin for at least 5 years after the date on which the certificate was issued.

**(g) Certifications of origin for goods exported under the Dominican Republic-Central America-United States Free Trade Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term ''records and supporting documents'' means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) the production of the good in the form in which it was exported.

**(B) CAFTA–DR certification of origin**

The term ''CAFTA–DR certification of origin'' means the certification established under article 4.16 of the Dominican Republic-Central America-United States Free Trade Agreement that a good qualifies as an originating good under such Agreement.

**(2) Exports to CAFTA–DR countries**

Any person who completes and issues a CAFTA–DR certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all

records and supporting documents related to the origin of the good (including the certification or copies thereof).

**(3) Retention period**

Records and supporting documents shall be kept by the person who issued a CAFTA–DR certification of origin for at least 5 years after the date on which the certification was issued.

**(h) Certifications of origin for goods exported under the United States-Peru Trade Promotion Agreement**

**(1) Definitions**

In this subsection:

**(A) Records and supporting documents**

The term ''records and supporting documents'' means, with respect to an exported good under paragraph (2), records and documents related to the origin of the good, including—

(i) the purchase, cost, and value of, and payment for, the good;

(ii) the purchase, cost, and value of, and payment for, all materials, including indirect materials, used in the production of the good; and

(iii) the production of the good in the form in which it was exported.

**(B) PTPA certification of origin**

The term ''PTPA certification of origin'' means the certification established under article 4.15 of the United States-Peru Trade Promotion Agreement that a good qualifies as an originating good under such Agreement.

**(2) Exports to Peru**

Any person who completes and issues a PTPA certification of origin for a good exported from the United States shall make, keep, and, pursuant to rules and regulations promulgated by the Secretary of the Treasury, render for examination and inspection all records and supporting documents related to the origin of the good (including the certification or copies thereof).

**(3) Retention period**

The person who issues a PTPA certification of origin shall keep the records and supporting documents relating to that certification of origin for a period of at least 5 years after the date on which the certification is issued.

**(i) Penalties**

Any person who fails to retain records and supporting documents required by subsection (f), (g), or (h) of this section or the regulations issued to implement any such subsection shall be liable for the greater of—

(1) a civil penalty not to exceed $10,000; or

(2) the general record keeping penalty that applies under the customs laws of the United States.

(June 17, 1930, ch. 497, title IV, § 508, as added Pub. L. 95–410, title I, § 104, Oct. 3, 1978, 92 Stat. 889; amended Pub. L. 100–449, title II, § 205(b), Sept. 28, 1988, 102 Stat. 1864; Pub. L. 103–182, title II, § 205(a), title VI, § 614, Dec. 8, 1993, 107 Stat. 2093, 2174; Pub. L. 104–295, § 3(a)(6)(B), Oct. 11, 1996, 110 Stat. 3515; Pub. L. 108–77, title II, §§ 207, 209, Sept. 3, 2003, 117 Stat. 931, 933; Pub. L. 109–53, title II, § 208, Aug. 2, 2005, 119 Stat. 485; Pub. L. 110–138, title II, § 207, Dec. 14, 2007, 121 Stat. 1476.)

AMENDMENT OF SECTION

*For termination of amendment by section 107(c) of Pub. L. 110–138, see Effective and Termination Dates of 2007 Amendment note below.*

*For termination of amendment by section 107(d) of Pub. L. 109–53, see Effective and Termination Dates of 2005 Amendment note below.*

*For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.*

PRIOR PROVISIONS

A prior section 1508, acts June 17, 1930, ch. 497, title IV, § 508, 46 Stat. 732; Aug. 8, 1953, ch. 397, § 19, 67 Stat. 518, related to commingling of goods, prior to repeal by Pub. L. 87–456, title III, § 301(a), May 24, 1962, 76 Stat. 75, effective, pursuant to section 501(a) of Pub. L. 87–456, with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963.

AMENDMENTS

2007—Subsec. (h). Pub. L. 110–138, §§ 107(c), 207(2), temporarily added subsec. (h). Former subsec. (h) redesignated (i). See Effective and Termination Dates of 2007 Amendment note below.

Subsec. (i). Pub. L. 110–138, §§ 107(c), 207(1), (3), temporarily redesignated subsec. (h) as (i) and, in introductory provisions, substituted ''(f), (g), or (h)'' for ''(f) or (g)'' and ''any such subsection'' for ''either such subsection''. See Effective and Termination Dates of 2007 Amendment note below.

2005—Subsec. (g). Pub. L. 109–53, §§ 107(d), 208(2), temporarily added subsec. (g). Former subsec. (g) redesignated (h). See Effective and Termination Dates of 2005 Amendment note below.

Subsec. (h). Pub. L. 109–53, §§ 107(d), 208(1), (3), temporarily redesignated subsec. (g) as (h) and, in introductory provisions, inserted ''or (g)'' after ''(f)'' and substituted ''either such subsection'' for ''that subsection''. See Effective and Termination Dates of 2005 Amendment note below.

2003—Subsec. (b). Pub. L. 108–77, §§ 107(c), 207(1), temporarily substituted ''Exportations to NAFTA countries'' for ''Exportations to free trade countries'' in heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (b)(2)(B)(i)(I). Pub. L. 108–77, §§ 107(c), 209, temporarily substituted ''the eleventh paragraph of section 1311 of this title'' for ''the last paragraph of section 1311 of this title'' and ''the proviso preceding the last proviso to section 81c(a) of this title'' for ''the last proviso to section 81c(a) of this title''. See Effective and Termination Dates of 2003 Amendment note below.

Subsecs. (f), (g). Pub. L. 108–77, §§ 107(c), 207(2), temporarily added subsecs. (f) and (g). See Effective and Termination Dates of 2003 Amendment note below.

1996—Subsec. (c)(1). Pub. L. 104–295 inserted '', filing of a reconciliation,'' after ''entry''.

1993—Subsec. (a). Pub. L. 103–182, § 614(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any owner, importer, consignee, or agent thereof who imports, or who knowingly causes to be imported, any merchandise into the customs territory of the United States shall make, keep, and render for examination and inspection such records (including statements, declarations, and other documents) which—

''(1) pertain to any such importation, or to the information contained in the documents required by this chapter in connection with the entry of merchandise; and

''(2) are normally kept in the ordinary course of business.''

Subsec. (b). Pub. L. 103–182, § 205(a)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations.''

Subsec. (c). Pub. L. 103–182, § 205(a)(2), amended generally subsec. (c), as amended by Pub. L. 103–182, § 614(2) (see below). Prior to amendment, subsec. (c) read as follows: ''The records required by subsections (a) and (b) of this section shall be kept for such period of time, not to exceed 5 years from the date of entry or exportation, as appropriate, as the Secretary shall prescribe; except that records for any drawback claim shall be kept until the 3rd anniversary of the date of payment of the claim.'' See Construction of 1993 Amendment note below.

Pub. L. 103–182, § 614(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The records required by subsection (a) and (b) of this section shall be kept for such periods of time, not to exceed 5 years from the date of entry, as the Secretary shall prescribe.'' See Construction of 1993 Amendment note below.

Subsec. (e). Pub. L. 103–182, § 205(a)(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Any person who fails to retain records required by subsection (b) of this section or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed $10,000.''

1988—Subsecs. (b) to (e). Pub. L. 100–449 added subsec. (b), redesignated former subsec. (b) as (c) and inserted ''and (b)'' after ''subsection (a)'', redesignated former subsec. (c) as (d), and added subsec. (e).

EFFECTIVE AND TERMINATION DATES OF 2007 AMENDMENT

Amendment by Pub. L. 110–138 effective on the date the United States-Peru Trade Promotion Agreement enters into force (Feb. 1, 2009) and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 110–138, set out in a note under section 3805 of this title.

EFFECTIVE AND TERMINATION DATES OF 2005 AMENDMENT

Amendment by Pub. L. 109–53 effective on the date the Dominican Republic-Central America-United States Free Trade Agreement enters into force (Mar. 1, 2006) and to cease to have effect on date Agreement ceases to be in force with respect to the United States, and, during any period in which a country ceases to be a CAFTA–DR country, to cease to have effect with respect to such country, see section 107 of Pub. L. 109–53, set out as an Effective and Termination Dates note under section 4001 of this title.

EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108–77, set out in a note under section 3805 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104–295, set out as a note under section 1321 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103–182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103–182, set out as an Effective Date note under section 3331 of this title.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of this title.

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 205(a) of Pub. L. 103–182 to be made after amendment by section 614 of Pub. L. 103–182 is executed, see section 212 of Pub. L. 103–182, set out as a note under section 58c of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 1509. Examination of books and witnesses

### (a) Authority

In any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service, the Secretary (but no delegate of the Secretary below the rank of district director or special agent in charge) may—

(1) examine, or cause to be examined, upon reasonable notice, any record (which for purposes of this section, includes, but is not limited to, any statement, declaration, document, or electronically generated or machine readable data) described in the notice with reasonable specificity, which may be relevant to such investigation or inquiry, except that—

(A) if such record is required by law or regulation for the entry of the merchandise (whether or not the Customs Service required its presentation at the time of entry) it shall be provided to the Customs Service within a reasonable time after demand for its production is made, taking into consideration the number, type, and age of the item demanded; and

(B) if a person of whom demand is made under subparagraph (A) fails to comply with the demand, the person may be subject to penalty under subsection (g) of this section;

(2) summon, upon reasonable notice—

(A) the person who—

(i) imported, or knowingly caused to be imported, merchandise into the customs territory of the United States,

(ii) exported merchandise, or knowingly caused merchandise to be exported, to a NAFTA country (as defined in section 3301(4) of this title) or to Canada during such time as the United States-Canada