

published in the **Federal Register** on March 11, 2010, which proposed to establish Class D airspace and modify existing Class E airspace at Columbus Metropolitan Airport, Columbus, GA. The NPRM is being withdrawn so that the revocation of the existing Class C airspace at Columbus Metropolitan Airport will coincide with the establishment of the Class D airspace in Columbus, GA.

**DATES:** Effective March 23, 2010. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA order 7400.9 and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Melinda Giddens, Airspace Specialist, Operations Support Group, Eastern Service Center, Air Traffic Organization, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5610.

**SUPPLEMENTARY INFORMATION:**

**History**

On Thursday, March 11, 2010, a Notice of Proposed Rulemaking was published in the **Federal Register** to establish Class D airspace and modify existing Class E airspace at Columbus, GA. Due to a decrease in air traffic volume at Columbus Metropolitan Airport a less restrictive Class D airspace would be established with specific dates and times established in advance by a Notice to Airmen. The existing Class E surface area would be modified to be coincident with the newly established Class D airspace.

In consideration of the need for the effective dates to coincide for the revocation of Class C airspace and the establishment of Class D airspace at Columbus Metropolitan Airport, Columbus, GA, action is being taken to withdraw the aforementioned legislative mandate. Therefore, action to establish Class D airspace in Columbus, GA, is premature and unnecessary at this time.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Withdrawal**

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 10-ASO-11, as published in the **Federal Register** on March 11, 2010 (75 FR 11475), is hereby withdrawn.

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

Issued in College Park, Georgia, on March 12, 2010.

**Michael Vermuth,**

*Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2010-6278 Filed 3-22-10; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**DEPARTMENT OF THE TREASURY**

**19 CFR Parts 111 and 163**

[USCBP-2009-0019]

RIN 1505-AC12

**Customs Broker Recordkeeping Requirements Regarding Location and Method of Record Retention**

**AGENCY:** Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes amendments to title 19 of the Code of Federal Regulations regarding customs broker recordkeeping requirements as they pertain to the location and method of record retention. Specifically, Customs and Border Protection (CBP) proposes to amend the CBP regulations to permit a licensed customs broker to store records relating to his customs transactions at any location within the customs territory of the United States, so long as the broker's designated recordkeeping contact, identified in the broker's permit application, makes all records available to CBP within a reasonable period of time from request at the broker district that covers the CBP port to which the records relate. This document also proposes to remove the requirement, as it currently applies to brokers who maintain separate electronic records, that certain entry records must be retained in their original format for the 120-day period after the release or conditional release of imported merchandise. The changes proposed in this document are intended to conform CBP's recordkeeping requirements to reflect modern business practices whereby documents are often generated, stored and transmitted in an electronic format. The proposed changes serve to remove duplicative recordkeeping requirements and streamline recordkeeping procedures for brokers who maintain electronic recordkeeping systems without

compromising the agency's ability to monitor and enforce recordkeeping compliance.

**DATES:** Comments must be received on or before May 24, 2010.

**ADDRESSES:** You may submit comments, identified by *USCBP docket number*, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2009-0019.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW. (Mint Annex), Washington, DC 20229.

**Instructions:** All submissions received must include the agency name and USCBP docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Whittenburg, Trade Policy and Programs, Office of International Trade, Customs and Border Protection, 202-863-6512.

**SUPPLEMENTARY INFORMATION:**

**Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change,

and include data, information, or authority that support such recommended change.

### Background

This document proposes amendments to title 19 of the Code of Federal Regulations (19 CFR) regarding broker recordkeeping requirements as they pertain to the location and method of record retention.

Many recordkeeping requirements that were once deemed necessary to ensure CBP's ability to monitor broker compliance and enforce the regulations were promulgated at a time when most records existed in a paper format. New technologies in data processing have served to streamline business operations and have drastically changed or rendered obsolete many long-standing business practices.

### Location of Stored Records

As the trade operates in an increasingly paperless environment, this document proposes amendments to the CBP regulations that would permit a licensed customs broker to store records relating to its customs transactions at any location within the customs territory of the United States, so long as the designated recordkeeping contact identified in the broker's applicable permit application makes all records available to CBP within a reasonable period of time from request at the broker district that covers the CBP port to which the records relate. These amendments serve to modernize the CBP regulations to reflect the automated commercial environment in which most documents are generated, stored and transmitted electronically, while preserving the agency's ability to monitor and enforce recordkeeping compliance.

### Method of Entry Record Storage During Prescribed 120-Day Period From Release or Conditional Release of Imported Merchandise

The recordkeeping provisions set forth in part 163 of title 19 of the CFR require the retention of records for a 5-year period either in their original format (*i.e.*, as created or received by the person responsible for maintenance) or in an alternative format (*i.e.*, electronic formats that are in compliance with generally accepted business standards), unless the records are entry documents (excluding packing lists) in which case they must be retained in their original formats for the prescribed 120-day period from release or conditional release of the imported merchandise.

Currently, all records relating to a broker's customs business, even if

originally submitted in paper, are typically stored in an electronic format as the broker receives them and/or at the time the broker files the entry summary in satisfaction of the general 5-year record retention requirement. In situations where the "original" entry documents are in an electronic format, there is no undue hardship in electronically retaining the records for the prescribed 120-day period inasmuch as it runs concurrently with the requisite 5-year document retention period. However, where the "original" entry documents are in a paper format, the broker currently must keep the "original" paper entry records for the prescribed 120-day period regardless of the fact that these same records have already been stored electronically. In these situations, a broker will end up retaining two sets of records (one paper and one electronic) for the same document. Moreover, because the period of retention for original entry documents varies depending on the extent of the "conditional release" period and/or whether a redelivery notice has been issued, a broker is precluded from establishing a reliable schedule for the systematic destruction of these types of documents. In most cases, a broker ends up maintaining both sets of records for the entire 5-year recordkeeping period.

This document proposes to remove this duplicative record retention requirement as it currently applies to brokers who maintain separate electronic records. While importers still must retain entry records in their original format for the 120-day period after the release or conditional release of imported merchandise, brokers who are not serving as the importer of record are exempted from this requirement so long as they retain all records electronically for 5 years. In addition, this exemption does not apply to brokers who do not maintain electronic records (that is, all brokers who only transmit paper documents to CBP). Also, this exemption does not apply to any document that is required by law to be maintained as a paper record, such as some softwood lumber documents.

### Explanation of Amendments

For the reasons described above, it is proposed to amend §§ 111.23 and 163.5 of title 19 of the CFR (19 CFR 111.23 and 163.5) regarding broker recordkeeping requirements as they pertain to the location and method of record retention. It is also proposed to amend § 163.12 (19 CFR 163.12) to reflect address changes. A more detailed explanation of the proposed amendments, other than those involving

technical corrections or minor wording and editorial changes, is set forth below.

### Section 111.23: Retention of Records

Section 111.23 sets forth entry record retention requirements. Paragraph (a)(1) of this section describes where records must be kept. Paragraph (a)(2) provides, in pertinent part, that the records described in paragraph (a)(1) of this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Paragraph (b) prescribes the manner by which brokers may exercise the option to store records on a consolidated system. This provision requires a broker to submit written notice to CBP providing each address at which the broker intends to maintain the consolidated records, a detailed statement describing all the records to be maintained at each location and the methodology of storage, as well as an agreement that there will be no change in the records or their method of storage without first notifying Regulatory Audit.

As CBP proposes to permit a licensed customs broker to store records relating to its customs transactions at any location within the customs territory of the United States, and to remove the requirement that the records must be retained within the specified broker district, a separate consolidated system of record retention as prescribed by existing § 111.23(b) is no longer necessary. Accordingly, CBP proposes to remove current paragraph (b) in § 111.23 and to restructure § 111.23 to set forth the new standards applicable to the location of record storage in paragraph (a), and to redesignate existing paragraph (a)(2), which pertains to the period of record retention, as paragraph (b).

### Section 163.5: Methods for Storage of Records

Section 163.5 of title 19 of the CFR prescribes the manner by which records must be stored. Within § 163.5, paragraph (a) sets forth the storage requirements applicable to original records and provides that all persons listed in § 163.2 (*i.e.*, owners, importers, consignees, importers of record, entry filers, or other persons) 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.

Paragraph (b) prescribes the standards applicable to "alternative methods of storage" and states that any record, other than those that are specifically required by law to be maintained as original, may be stored in an alternative format.

Section 163.5(b)(2)(iii) identifies entry records, other than packing lists, as among the types of records that must be stored “in their original formats” for a prescribed time period. It is proposed to amend § 163.5(b)(2)(iii) to provide that the requirement to store entry records in their original format for the prescribed time period is limited to importers, brokers who are serving as importers of records, and brokers who only maintain paper records.

Section 163.5(b)(5) sets forth the manner by which CBP will address a failure to comply with alternative storage requirements. This provision currently states that if a person uses an alternative storage method for records that is not in compliance with the regulations, the appropriate CBP office may instruct the person in writing to immediately discontinue the use of such method. The instruction to discontinue the alternative storage method, per the regulations, is effective upon receipt. This document proposes to amend § 163.5(b)(5) to provide that, prior to a discontinuance of the alternative storage method, CBP will provide the recordkeeper with 30-days written prior notice that describes the facts giving rise to the action. If, within that 30-day period, the recordkeeper provides written notice to CBP that establishes, to CBP’s satisfaction, that compliance has been achieved, the alternative storage method may continue. Failure to timely respond to CBP will result in CBP requiring discontinuance of the alternative storage method.

#### **The Regulatory Flexibility Act and Executive Order 12866**

Because these proposed amendments liberalize broker recordkeeping requirements, and place no new regulatory requirements on small entities to change their business practices, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Further, these proposed amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

#### **Paperwork Reduction Act**

The information collections contained in this proposed rule have been previously submitted and approved by the Office of Management and Budget (OMB) and assigned OMB control numbers 1651–0076 and 1651–0034. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it

displays a valid control number assigned by OMB.

#### **Signing Authority**

This document is being issued in accordance with 19 CFR 0.1(a)(1).

#### **List of Subjects**

##### **19 CFR Part 111**

Administrative practice and procedure, Brokers, Customs duties and inspection, Licensing, Penalties, Reporting and recordkeeping requirements.

##### **19 CFR Part 163**

Administrative practice and procedure, Customs duties and inspection, Penalties Reporting and recordkeeping requirements.

#### **Amendments to the Regulations**

For the reasons set forth in the preamble, parts 111 and 163 of title 19 of the Code of Federal Regulations are proposed to be amended as set forth below.

#### **PART 111—CUSTOMS BROKERS**

1. The authority citation for part 111 continues to read in part as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

\* \* \* \* \*

2. Section 111.23 is revised to read as follows:

##### **§ 111.23 Retention of records.**

(a) *Place of retention.* A licensed customs broker may retain records relating to its customs transactions at any location within the customs territory of the United States in accordance with the provisions of this part and part 163 of this chapter. Upon request by CBP to examine records, the designated recordkeeping contact identified in the broker’s applicable permit application, in accordance with § 111.19(b)(6) of this chapter, must make all records available within a reasonable period of time to CBP at the broker district that covers the CBP port to which the records relate.

(b) *Period of retention.* The records described in this section, other than powers of attorney, must be retained for at least 5 years after the date of entry. Powers of attorney must be retained until revoked, and revoked powers of attorney and letters of revocation must be retained for 5 years after the date of revocation or for 5 years after the date the client ceases to be an “active client” as defined in § 111.29(b)(2)(ii), whichever period is later. When merchandise is withdrawn from a bonded warehouse, records relating to

the withdrawal must be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

#### **PART 163—RECORDKEEPING**

3. The authority citation for part 163 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

4. In § 163.5:

a. Paragraph (a) is amended in the first sentence by removing the word “shall” and adding in its place the word “must”, and in the second sentence by removing the word “Customs” and adding in its place the term “CBP”;

b. Paragraph (b)(2) introductory text is amended in the second sentence by removing the word “Customs” and adding in its place the term “CBP”;

c. Paragraph (b)(2)(iii) is revised;

d. Paragraph (b)(2)(v) is amended by removing the word “Customs” and adding in its place the term “CBP”;

e. Paragraph (b)(2)(vi) is amended by removing the word “shall” and adding in its place the word “must”;

f. Paragraph (b)(3) is amended by removing the words “the Miami regulatory audit field office” and adding in their place the language, “Regulatory Audit, Office of International Trade, Customs and Border Protection, 2001 Cross Beam Drive, Charlotte, North Carolina 28217”;

g. Paragraph (b)(4) is amended by removing the words “shall be” and adding in their place the word “are”; and

h. Paragraph (b)(5) is revised.

The revision of § 163.5(b) reads as follows:

##### **§ 163.5 Methods for storage of records.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(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 the importer of record and who maintain separate electronic records are exempted from this requirement. This exemption does not apply to any document that is required by law to be maintained as a paper record.

\* \* \* \* \*

(5) *Failure to comply with alternative storage requirements.* If a person listed in § 163.2 uses an alternative storage method for records that is not in compliance with the conditions and requirements of this section, CBP may issue a written notice informing the person of the facts giving rise to the notice and directing that the alternative storage method must be discontinued in 30 calendar days unless the person provides written notice to the issuing CBP office within that time period that explains, to CBP's satisfaction, how compliance has been achieved. Failure to timely respond to CBP will result in CBP requiring discontinuance of the alternative storage method until a written statement explaining how compliance has been achieved has been received and accepted by CBP.

#### § 163.12 [Amended]

5. In § 163.12:

a. Paragraph (a) is amended by removing the word "Customs" wherever it appears and adding in its place the term "CBP";

b. Paragraph (b)(2) is amended: by removing the word "shall" wherever it appears and adding in its place the word "must", and; in the second sentence, by removing the words "Customs Recordkeeping" and adding in their place the words "CBP

Recordkeeping" and removing the language "the Customs Electronic Bulletin Board (703-921-6155)" and adding in its place the language, "CBP's Regulatory Audit Web site located at [http://www.cbp.gov/xp/cgov/import/regulatory\\_audit\\_program/archive/compliance\\_assessment/](http://www.cbp.gov/xp/cgov/import/regulatory_audit_program/archive/compliance_assessment/)";

c. Paragraph (b)(3) introductory text is amended: in the first, third and fourth sentences, by removing the word "Customs" wherever it appears and adding in its place the term "CBP", and; in the second sentence, by removing the word "Customs" and adding in its place the words "all applicable";

d. Paragraphs (b)(3)(iii), (iv), (v), and (vi) are amended by removing the word "Customs" wherever it appears and adding in its place the term "CBP";

e. Paragraph (c)(1) is amended by removing the word "shall" wherever it appears and adding in its place the word "will";

f. Paragraph (c)(2) is amended: by removing the word "Customs" and adding in its place the term "CBP"; by removing the word "Miami" and adding in its place the word "Charlotte", and; by removing the word "shall" and adding in its place the word "will";

g. Paragraph (d)(1) is amended: in the first sentence, by removing the words "Customs shall" and adding in their

place the words "CBP will", and; in the second sentence, by removing the word "Customs" and adding in its place the word "CBP";

h. The introductory text to paragraph (d)(2) is amended by removing the word "shall" and adding in its place the word "must"; and

i. Paragraph (d)(3) is amended: by removing the word "shall" and adding in its place the word "must", and; by removing the word "Customs" and adding in its place the term "CBP".

**David V. Aguilar,**

*Acting Deputy Commissioner, U.S. Customs and Border Protection.*

Approved: March 10, 2010.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2010-6362 Filed 3-22-10; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1314

[Docket No. DEA-328P]

RIN 1117-AB25

#### Implementation of the Methamphetamine Production Prevention Act of 2008

**AGENCY:** Drug Enforcement Administration (DEA), Justice.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** In October 2008, the President signed the Methamphetamine Production Prevention Act of 2008, which clarifies the information entry and signature requirements for electronic logbook systems permitted for the retail sale of scheduled listed chemical products. DEA is promulgating this rule to incorporate the statutory provisions and make its regulations consistent with the new requirements. Once finalized, this action will make it easier for regulated sellers to maintain electronic logbooks by allowing greater flexibility as to how information may be captured.

**DATES:** Written comments must be postmarked and electronic comments must be submitted on or before May 24, 2010. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-328" on all written and electronic correspondence. Written

comments sent via regular or express mail should be sent to Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrisette Drive, Springfield, VA 22152. Comments may be sent to DEA by sending an electronic message to

[dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov).

Comments may also be sent electronically through <http://www.regulations.gov> using the electronic comment form provided on that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. DEA will accept electronic comments containing MS word, WordPerfect, Adobe PDF, or Excel files only. DEA will not accept any file formats other than those specifically listed here.

Please note that DEA is requesting that electronic comments be submitted before midnight Eastern time on the day the comment period closes because <http://www.regulations.gov> terminates the public's ability to submit comments at midnight Eastern time on the day the comment period closes. Commenters in time zones other than Eastern time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

#### FOR FURTHER INFORMATION CONTACT:

Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrisette Drive, Springfield, VA 22152, Telephone (202) 307-7297.

#### SUPPLEMENTARY INFORMATION:

*Posting of Public Comments:* Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first