CustomsGenius

Records to review before declaring U.S. importer of record status

The test

A company qualifies as a U.S. importer of record when it meets all three parts (19 CFR 110.2(a)); an individual qualifies when he or she is a U.S. citizen or lawful permanent resident.

1. Organized	Under the laws of the United States.
2. Located	In the United States. CBP will take into account the size and scale of the entity's overall operations and whether it is an instrumentality of a foreign manufacturer without a substantial presence in the United States. It may also consider, in its discretion: the principal place of business, a physical presence where substantial business transactions are conducted, sufficient unencumbered physical domestic assets, direct ownership of a significant amount of unencumbered real property, gross sales that generally exceed its cost of goods sold and a structure under which it is anticipated to generate its own profit, and sufficient capitalization.
3. Owners or real property	Either at all times "at least 51% of beneficial owner(s)" are U.S. citizens or lawful permanent residents and have control of the entity, or the entity maintains direct ownership of a significant amount of unencumbered real property in the United States at all times. CBP puts a significant amount at the greater of $20 million or 100% of prior-year entered value (CBP questions and answers, November 17, 2026).

Beneficial owner. A natural person who, directly or indirectly, exercises substantial control over the entity or owns or controls not less than 25 percent of its ownership interests, including through layers of entity ownership. Every entity has at least one. The rule excludes a minor child, an individual acting as a nominee, intermediary, custodian, or agent on behalf of another individual, an individual acting solely as an employee who is not a senior officer, an individual whose only interest is through a right of inheritance, and a creditor, each with the conditions 19 CFR 110.1 states.

The 51% test is unsettled. The regulation says "51% of beneficial owner(s)"; the preamble says "51% beneficial ownership". The text does not say whether to count owners or ownership interest, so work it both ways.

By count	Qualifying owners (U.S. citizens or lawful permanent residents with control) as a share of all beneficial owners.
By interest	The qualifying owners' ownership interest as a share of the whole. When the two readings disagree, the text does not settle the answer.

Records to request and review

Before filing the U.S. importer of record declaration for a client (19 CFR 141.22), request and review the client's records (19 CFR 111.29(a)(2)). The rule says they may include, but are not limited to:

	Proof of citizenship or lawful permanent residence		Corporate charters
	Financial statements and records		Purchase receipts
	Documents of title		Other records the test needs:

Write down and keep

The rule requires the records to be requested, reviewed and retained. A suggested way to document the review:

	The verification performed: the records requested and reviewed, and the answer on each part of the test
	The date of the verification

Keep the records of the verification five years from the date the verification is conducted (19 CFR 111.23(b)), on file with your other records relating to customs business (19 CFR 111.21(a)).

Dates

Before January 5, 2027	Submit any request to delay compliance, which covers only the verification duty in 19 CFR 111.29, with an explanation of the need. A broker under certain enforcement actions is ineligible. A delay applies only if CBP approves it, and during it the broker must keep complying in good faith as far as it is currently able.
January 5, 2027	The rule takes effect, and the updated CBP Forms 3461 and 7501 are used for every entry and entry summary. Without an approved delay, the verification duty applies from this date.
May 6, 2027	Every customs broker, one with an approved delay included, is expected to be in full compliance.

When the answer is No

The importer is a foreign importer of record (19 CFR 110.3). For merchandise entered for consumption for which a formal entry is required, or an informal entry required to be filed on CBP Form 3461 or 7501 or their electronic equivalents, it may enter only as 19 CFR 141.21(b) provides, by its status in CTPAT (Customs Trade Partnership Against Terrorism):

CTPAT validated	If it is validated through CTPAT and has the right to make entry, it may enter the merchandise itself or hire a licensed customs broker to make entry.
Not validated	It designates a licensed customs broker validated through CTPAT to make entry or act as importer of record for the entry. A broker acting as importer of record on behalf of a principal on the power of attorney who is not an importer of record and would qualify as a foreign importer of record must also be validated through CTPAT. The designated broker must act as importer of record when the principal on the power of attorney is not the owner or purchaser of the merchandise.

On the entry. Leave the U.S. importer of record box blank on paper; answer No in the electronic filing.

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