



Public Works and
Government Services
Canada

Travaux publics et
Services gouvernementaux
Canada

POLICY GUIDELINE

ON

RECORD KEEPING

March 24, 2004

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1. INTRODUCTION

A condition of registration under Section 10 of the Controlled Goods Regulations (CGR) is that a registered person must keep and maintain a record keeping system.

The Controlled Goods Regulations identifies three types of record keeping requirements. Firstly, the registered person must keep records of all transfer, receipt or disposition of controlled goods to another person. Secondly, they must also keep records of security assessments and supporting documentation with respect to each officer, director, employee and temporary worker who examines, possesses or transfers controlled goods. Thirdly, the registered person must also keep records of the evidence referred to in subsection 16(2) of the CGR regarding ITAR exempt individuals; this extends to any other foreign visitor to the registered person's place of business.

2. OBJECTIVE

This policy guideline details the requirements the registered person must comply with under the Controlled Goods Regulations (CGR) for establishing and implementing a record keeping system.

3. POLICY GUIDELINE ON THE REGULATORY CRITERIA

A condition of CGP registration is that every registered person must establish and implement a record keeping system.

The registered person must, as stated in section 10(a) of the CGR, keep and maintain records of controlled goods, received, transferred or disposed of during the period of registration and for a period of five years after the day on which the person ceases to be a registered person.

The registered person must, as stated in section 10(b) of the CGR, also keep records of security assessments and supporting documentation with respect to each officer, director, employee and temporary worker who examines, possesses or transfers controlled goods during the period of registration and for a period of two years after the day on which the individual ceases to be an officer, director, employee or temporary worker of the person.

A registered person must, as stated in section 10(c) of the CGR, keep a copy of the evidence referred to in subsection 16(2) regarding ITAR exempt individuals during the period of registration and for a period of two years after the individual ceases to have access to the controlled goods of the registered person.

The registered person must, as stated in section 10 (a)(ii) of the CGR, during the period of registration and for a period of five years after the day on which the person ceases to be a registered person, keep records and supporting documentation of all

visitors who will be permitted to examine, transfer or possess controlled goods at the registered person's place of business.

Reference: Subsections 10 (a), (b), (c) and section 16 of the CG Regulations. See Appendix for legislative text.

4. DEFINITIONS

Officer: the chairperson or vice-chairperson of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager and any other person designated an officer by by-law or by resolution of the directors, and any other individual who performs functions for the company similar to those normally performed by an individual occupying any of those offices.

Director: a person who manages the affairs and business of the company.

Employee: a person employed by the registered person to perform duties for remuneration under either a contract of or for services.

Temporary Worker: an officer, director or employee of a registered person who is not:

- A Canadian citizen ordinarily resident in Canada; or
- A permanent resident ordinarily resident in Canada.

Visitor: an individual who is not an officer, director or employee of a registered person and who is not:

- A Canadian citizen ordinarily resident in Canada; or
- A permanent resident ordinarily resident in Canada.

Examine: to investigate controlled goods by any means so as to provide a person with detailed knowledge of the controlled goods' inherent properties and performance characteristics that would allow that person to use this knowledge so that the good could be reproduced or replicated, or the performance of a similar article could be improved.

Possess: either actual possession, where the person has direct physical control over a controlled good at a given time, or constructive possession, where the person has the power and the intention at a given time to exercise control over a controlled good, either directly or through another person or persons.

Transfer: means, in respect of a controlled good, to dispose of it or disclose its content in any manner.

Description of Controlled Good: Name of controlled good(s), Part Number of the Controlled Good, NATO Stock Number, Group and Item Number in the Export Control List, if known and available, as well as a Decision by the Department of Foreign Affairs and International Trade on the control status of the good, if available.

Identity: Name of registered person and proof of that person's registration with the CGP.

Proof of CGP Registration: This could be a print out from the CGP website verifying that the person is a registered person or any other acceptable "Proof of CGP Registration."

5. RECORD KEEPING

A record keeping system must be established, implemented and effectively applied over the period of registration and for five years after the person ceases to be a registered person.

The CGP is required to ensure that the record keeping system meets the regulatory criteria and is effective in ensuring that the records referred to in this policy guideline can be made available at any reasonable time to the CGP for review.

The record keeping system in place at the registered person's place of business must only be accessed by individuals who are authorized to do so by the registered person.

The registered person can choose to keep the records electronically but must ensure that any changes to the records are documented and that they are safe from modification by unauthorized persons.

The manner in which the records are kept is a decision left to the registered person, however, they must ensure that the records are easily accessible and decipherable by CGP Inspectors.

6. RECORDS OF CONTROLLED GOODS

Records regarding controlled goods, as prescribed by regulation, must be kept and maintained during the period of registration and for a period of five years after the day on which the person ceases to be registered.

The records must contain:

- A description of any controlled goods received by the person, the date of their receipt and the identity and address of the person from whom they were transferred.
- A description of any controlled goods transferred by the person, the date of their transfer and the identity and address of the person to whom they were transferred.

- A description of the manner and date of the disposition of the controlled goods.
(A policy guideline regarding the disposition (disposal) of controlled goods will be developed to provide further guidance in this matter.)

In regards to the first two requirements concerning records of controlled goods, mentioned above, these can be achieved by keeping such documents as a bill of sale or a contract/agreement with the registered person from or to whom the controlled goods are being transferred. The CGP also requires that the registered person keep proof of CGP registration of every registered person to and from whom controlled goods were transferred.

7. RECORDS OF SECURITY ASSESSMENTS

The registered person must keep and maintain records of security assessments and supporting documentation in respect of each officer, director, employee and temporary worker who examines, possesses or transfers controlled goods during the individual's employment and for a period of two years after the day on which the individual ceases to be an officer, director, employee or temporary worker of the registered person.

Supporting documents must include, but is not limited to:

- CGP security assessment application(s)
- Application for Exemption for temporary workers
- Certificate of Exemption of Temporary workers
- Copy of the preliminary security evaluation of temporary workers done by the Designated Official
- Criminal Record Name Check (if applicable)
- Certificate of Good Conduct from a local police department
- Fingerprints (if applicable)
- Proof of Employment Authorization (copy of birth certificate, passport, immigration papers and for temporary workers a work permit)

8. RECORDS OF EXEMPTED INDIVIDUALS

The registered person must keep records and supporting documentation regarding the following four types of exempted persons:

- 8.1** ITAR Registered Individuals
- 8.2** US Government Officials
- 8.3** Temporary Workers
- 8.4** Visitors

8.1 Records of ITAR Registered Individuals

The registered person must keep a copy of the evidence referred to in subsection 16(2) for a period of two years after the day on which the individual who is exempt ceases to have access to controlled goods of the registered person.

An individual who is a director, officer or an employee of a person registered to access controlled goods under the *International Traffic in Arms Regulations* (ITAR) is exempt from registration under the CGP. However, the individual is only exempt from registration from the day on which they provide to the registered person from whom they will obtain access to the controlled goods:

- Evidence of the individual's status as a director, an officer or an employee of the person registered under ITAR.
- Evidence of the registration and eligibility of that person under the ITAR.
- Evidence of the eligibility of the individual under the ITAR.

Note:

For the purposes of the above section, the following terms, which can be found in Section 16 of the CGR, are defined as follows:

Individual refers to an officer, director or employee of the person registered under the ITAR.

Person refers to the business or company registered under the ITAR.

8.2 Record of United States Government Officials

An individual is exempt from registration if they are an officer, employee or elected or appointed official of the United States federal government, or of a state or territorial government of the United States and act in good faith in the course of their duties and employment.

The registered person must keep a record of all US government officials, who will have access to controlled goods at the registered person's place of business.

The record, in the form of a logbook, must contain:

- The name of the government official
- The time and date of the visit
- The name of the government department/agency which employs the visitor
- A description or photocopy of the identification taken

8.3 Records of Temporary Workers

The registered person must keep records and supporting documentation of each temporary worker who examines, possesses or transfers controlled goods at the registered person's place of business. This requirement is addressed in detail in Section 7 "Records of Security Assessments" of this policy guideline and in the Policy Guideline on Security Assessments by the Designated Official.

8.4 Records of Visitors

The registered person must keep records of all transfer(s) of controlled goods to visitors. A visitor by accessing controlled goods is involved in a transfer of knowledge and, as a result, the registered person must keep records including supporting documentation, of all visitors who will be permitted to examine, possess or transfer controlled goods at the registered person's place of business. Records of Visitors must be kept during the period of registration and for a period of five years after the day on which the person ceases to be a registered person.

Supporting documentation that the registered person must keep could include, but is not limited to:

- Copy of the Application for Exemption from Registration for a Visitor
- Copy of the Certificate of Exemption from Registration for a Visitor
- Copy or Description of Identification taken (If applicable)

9. APPLICATION

This policy guideline is effective as of March 24, 2004.

New registered persons will have 120 days subsequent to receiving their certificate of registration to comply with this policy guideline.

For persons registered prior to the effective date of this policy, they will have 120 days subsequent to this policy guideline being published on the CGP website to comply with the requirements set forth.

The record keeping system implemented and established at the registered person's place of business is subject to being made available upon inspection by the CGP at any time over the period of registration and for five years after the person ceases to be a registered person.

This policy guideline will be reviewed periodically to assess its comprehensiveness.

The registered person should review their record keeping system periodically to ensure it continues to meet the security needs for safeguarding controlled goods and reflect any regulatory or legislative changes to the CGP.

This policy guideline does not nullify the record keeping conditions outlined in the Security Plans Policy Guideline and the Trainings and Programs Policy Guideline.

10. ENQUIRIES AND COMMENTS

To obtain additional information, visit the CGP web site at: www.cgp.gc.ca

For enquiries, the CGP can be reached toll free at **1-866-368-4646** or by electronic mail: ncr.cgp@pwgsc.gc.ca.

By mail, the address is:

Controlled Goods Program of Canada
Public Works and Government Services Canada
C/O Central Mail Room
Place du Portage, Phase III OB3
11 Laurier Street, Gatineau
K1A 0S5

Physical location is: 3rd Floor
2745 Iris Street
Ottawa, Ontario

Any comments on this policy guideline are welcome and can be forwarded to the address above or by electronic mail: **Attention: Manager Policy, Controlled Goods Program.**

APPENDIX

LEGISLATIVE TEXT

Controlled Goods Regulations:

Section 10. Every registration of a person is subject to the following conditions:

- (a) That the person keep and maintain, during the period of registration and for a period of five years after the day on which the person ceases to be a registered person, records that contain
 - i. A description of any controlled goods received by the person, the date of their receipt and an identification of the person from whom they were received,
 - ii. A description of any controlled goods, transferred by the person, the date of their transfer and the identity and address of the person to whom they were transferred, and
 - iii. A description of the manner and date of disposition of the controlled goods;
- (b) That the person keep and maintain records of security assessments and supporting documentation in respect of each officer, director, employee and temporary worker who examines, possesses or transfers controlled goods, during the period of an individual's employment and for a period of two years after the day on which the individual ceases to be an officer, director, employee or temporary worker of the person;
- (c) That the person keep a copy of the evidence referred to in subsection 16(2) for a period of two years after the day on which the individual ceases to have access to the controlled goods of the registered person;
- (i) That the person make available, at any reasonable time, to the Minister or any inspector the records referred to in paragraphs (a) and (b) and the evidence referred to in paragraph (c);

Section 16

1. Subject to subsection (2), an individual is exempt from registration if they are a director, an officer or an employee of a person registered to access controlled goods under the *International Traffic in Arms Regulations*, Title 22, Parts 120-130 of the *Code of Federal Regulations* (United States).
2. An individual is exempt from registration from the day on which they provide to the person registered under these regulations from whom they will obtain access to the controlled goods

- a) Evidence of the individual's status as a director, an officer or an employee of the person registered under the regulations referred to in subsection (1),
 - b) Evidence of the registration and eligibility of that person under the *International Traffic in Arms Regulations*, and
 - c) Evidence of the eligibility of the individual under the *International Traffic in Arms Regulations*
3. An individual is also exempt from registration if they are an officer, employee or elected or appointed official of the United States federal government or of a state government or territorial government of the United States and act in good faith in the course of their duties and employment.