

GUIDANCE:

PASS TO: Please pass this information to port directors, assistant port directors, import specialists, entry specialists, brokers, and importers.⁵

CONTACT: For questions regarding this memorandum, please contact Ms. Laurie Dempsey, Chief, Entry, Summary, and Drawback at (202) 863-6509, laurie.dempsey@dhs.gov.

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May 24, 2011

MEMORANDUM FOR: Directors, Field Operations

FROM: Executive Director, Trade Policy and Programs
Office of International Trade

SUBJECT: GUIDANCE: CBP Forms 28 and 29 Language

The purpose of this memorandum is to remind ports of U.S. Customs and Border Protection's (CBP) policy concerning the appropriate issuance of CBP Form 28, Request for Information and CBP Form 29, Notice of Action.⁵

The CBP Form 28 is used by CBP when there is insufficient information in the entry summary package to determine admissibility, appraised value, or classification of imported merchandise.⁵ Brochures, descriptive literature, blueprints, samples, proof of payment, affidavits, etc. may be requested.⁵

CBP has advised the field to limit the use of the CBP Form 28 for the purposes stated above and not extend its use as notification that a formal investigation has commenced as a matter of enforcement policy, not a matter of law. The preferred mechanism to inform the importer of the commencement of an investigation is by correspondence on CBP letterhead or the CBP Form 29.

CBP has also advised the field that the CBP Form 28 shall not be used to request proof of a properly executed valid power of attorney.⁵ CBP shall request proof of a properly executed valid power of attorney during a broker compliance visit or via an individually drafted letter.

CBP has also advised the field concerning the use of the CBP Form 29.⁵ Generally, as stated in 19 CFR 152.2, an entry which is entered at a rate or value of merchandise which is too low, or the import quantity exceeds that of the entered quantity, and the estimated aggregate increase in duties exceeds \$15, CBP will notify the importer of the specific nature of the difference.⁵ If the rate advance is a proposed action, the importer is afforded 20 days, from the date of CBP mailing the CBP Form 29, to furnish CBP with specific reasons why the rate advance should not be issued.

It is CBP's goal to act uniformly in providing legal notification to the appropriate party when proposing or taking certain actions.⁵ CBP should avoid using language on these forms such as "failure to provide information could lead to penalties under 19 USC 1592..." or "this office is investigating the classification of..." if in fact an investigation is not already in process.⁵ Such language defeats the goal of informed compliance and may dissuade importers from filing valid prior disclosures.

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Signed by Therese Randazzo for:
Brenda B. Smith

cc:5 Director, Trade Operations Division, Office of Field Operations