

**ORIGINATING OFFICE:** FO:TPTA

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**CUSTOMS DIRECTIVE NO.** 3810-011A

**DATE:** JUNE 28, 1999

**SUPERSEDES:** 099 3810-011, 8/31/94

**REVIEW DATE:** JUNE 2001

**SUBJECT: NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)  
VERIFICATIONS**

**1 PURPOSE.** This directive establishes the policy and procedures for initiating an origin verification pursuant to Article 506 of the North American Free Trade Agreement (NAFTA). 19 CFR 181.72.

**2 POLICY.**

2.1 Acceptance of a NAFTA Certificate of Origin (CO) will result in the granting of preferential tariff treatment unless a verification of origin finds otherwise (181.22(c)), or in cases involving a pattern of conduct (19 CFR 18176(c)), or if Customs control documentation is not provided when transshipment outside the NAFTA territory occurs (181.23(b)).

2.2 Origin verifications may be conducted to determine the origin of a good, including its materials and components, the applicable rate of duty applied to an originating good in accordance with Annex 302.2 of the NAFTA and whether a good is a qualifying good in accordance with Annex 703.2 of the NAFTA.

2.3 Verifications may be conducted by import specialists and regulatory auditors. All verifications require the Port Director to issue a written determination. Therefore, if a verification is to be conducted by an auditor, arrangements will be made with the Port Director prior to initiating the verification.

2.4 Verifications can be conducted by means of a letter (no proscribed format), CF28 "Request for Information," CF446 "NAFTA Questionnaire," visit or other means. The information must be provided by the exporter or producer. Only information received in writing can be used in a negative determination.

2.5 A verification will not be initiated if one is already pending on the identical good. Likewise, if a positive determination for an identical good was made against a blanket CO or against a single CO within the last year, another verification will not be initiated unless there is sufficient reason to believe the facts have changed. Identical goods are defined in NAFTA Article 514 as goods that are the same in all respects, including physical characteristics, quality and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods under Chapter Four of the Agreement.

**3 AUTHORITIES/REFERENCES.** 19 CFR 181 Subparts C and G, NAFTA Articles 505 and 506, CD 099 3810-008 Verification visits, CD 099 3810-010 Determinations

**4 DEFINITIONS.** A verification of origin is initiated when information regarding the origin of an imported good, beyond that provided on the Certificate of Origin, is requested.

**5 RESPONSIBILITIES.** The Assistant Commissioner, Office of Field Operations; Director, Trade Programs; Directors, Field Operations; Port Directors; and Assistant Port Directors will ensure these procedures are followed.

**6 PROCEDURES.**

6.1 Before initiating a verification, the NAFTA Database will be searched for verifications on the same company and MID or, if the database is not available locally, the Port will contact North Star Commercial at 716 551-3053. If a verification is pending on the identical good, the Port should not initiate another. If a positive determination for an identical good was made against a blanket CO or against a single CO within the past year, the Port should not initiate another verification unless there sufficient reason to believe the facts have changed.

6.2 Prior to initiating an origin verification, a copy of the Certificate of Origin (CO) will be obtained from the importer of record. If the CO and supporting information are requested at the same time from the same importer/exporter and if a valid CO is not received within 30 days, the claim will be denied and the verification will be considered canceled.

6.3 Verification visit procedures are addressed in CD 099 3810-008.

6.4 The following procedures apply to verifications conducted by means of a CF28, letter or questionnaire.

6.4.1 Customs will allow the company a minimum of 30 days from the date of the request to respond to all written verifications. Where a producer of a good elects to calculate the regional value content of the good under the net cost method, U.S. Customs will not conduct a verification on that good during the time period over which the net cost is calculated or for at least 180 days thereafter in the case of automobiles.

6.4.2 If the exporter or producer fails to respond to a letter, CF28 or questionnaire, a follow-up letter (19 CFR 181.72(d)) will be issued to the exporter as a PROPOSED CF29. The follow-up letter will include a determination indicating that if the required information is not received, the good will be considered non-originating. A copy of the original request will be attached to the follow-up letter. The effective date, in general, is

30 days from the date of issuance for exporters in Canada and 30 days from the date of receipt for exporters in Mexico. A fax is not considered received until the company returns a separate receipt. See Attachment A for sample language.

6.4.3 If the importer was requested to obtain the supporting information and it is not received within 30 days, a request is to be sent directly to the exporter or producer. The request to the exporter or producer will be considered the original request and they will be entitled to a follow-up letter if they fail to respond. The failure by the importer to provide the information cannot be considered grounds for refusing preferential treatment.

6.4.4 If the request was made to a producer of a material used in the production of the good being verified and sufficient information is not received, the material will be treated as non-originating for purposes of determining the origin of the good.

6.4.5 All verifications of origin MUST result in a written determination. Customs Directive 099 3810-010 outlines the procedures for the issuance of origin determinations.

Assistant Commissioner  
Office of Field Operations

Attachment

#### ATTACHMENT A FOLLOW-UP LETTER

Pursuant to Article 506 of the North American Free Trade Agreement (NAFTA), the United States Customs Service attempted to verify the origin of the good(s) listed below, (original request attached).

[ PRODUCT DESCRIPTION ]

If the requested information is not supplied within 30 days from the receipt of this notice, preferential tariff treatment will be denied without further notification pursuant to 19 CFR 181.72(d).

Claims for preferential tariff treatment were made on the consumption entries listed below and were based on a Certificate(s) of Origin signed by you on [CO DATE ]

If preferential tariff treatment is denied, the Certificates of Origin prepared by you and referenced in this notice will be invalid on the date of the denial. Pursuant to Article 504 of the North American Free Trade Agreement, you have an obligation to notify in writing

all persons to whom you have given one of these Certificates of Origin.

As exporter, you have the right to appeal the liquidation of the entries listed in this notice pursuant to 19 USC 1514 and 19 CFR 174. A Bulletin Notice of Liquidation will be posted at the Customhouse where the entries were filed. Your appeal rights are allowed for 90 days after the Bulletin Notice of Liquidation is posted, appeals filed prior to liquidation will be denied as untimely.

[Cases involving a pattern of conduct also require the following statement:

The U.S. Customs Service has issued two or more determinations indicating that these goods do not qualify for preferential tariff treatment pursuant to NAFTA. All future shipments of these goods to the United States will be denied such treatment until you establish compliance with the rules of origin, as described in General Note 12 to the Harmonized Tariff Schedule of the United States.]

[ LIST ENTRIES]