

**ORIGINATING OFFICE:** FO:TP:TA

**DISTRIBUTION:** S-01

**CUSTOMS DIRECTIVE NO.** 3810-014

**DATE:** JUNE 28, 1999

**SUPERSEDES:** 3280-015, 3/14/94

**REVIEW DATE:** JUNE 2001

**SUBJECT: CERTIFICATE OF ORIGIN FOR THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)**

**1 PURPOSE.** This directive establishes policy guidelines for use of the NAFTA Certificate of Origin (Certificate) (U.S. Customs Form 434).

**2 POLICY.**

2.1 Import Specialists shall deny claims, and consider the assessment of penalties, if it is determined that an importer did not possess a valid Certificate of Origin at the time the claim for preferential NAFTA treatment was made.

2.2 Import Specialists shall request copies of Certificates of Origin, and translations thereof, as necessary to substantiate claims for preferential NAFTA treatment. Customs shall give importers a reasonable amount of time to submit a copy of the Certificate, generally 30 days.

2.3 Preparation of a Certificate confers certain legal rights, and imposes certain legal obligations and liabilities on the party signing the document and should be based on a careful inquiry into the terms of the NAFTA.

2.4 The Certificate must be in the possession of the importer at the time preferential treatment is claimed and shall be presented to the Port Director of Customs, or his or her designee, upon request.

2.5 If the Certificate contains inadequate information, is unsigned, or is otherwise defective on its face, the Import Specialist will instruct the importer to submit a corrected Certificate. Since a Certificate that is defective on its face is invalid, denial of the claim in these circumstances is not an "origin determination" and there is no need to notify the exporter.

2.6 If the importer fails to submit a copy of the Certificate after a request from Customs, the Import Specialist will deny the claim for NAFTA benefits. False statements made in connection with the claim may result in denial of the claim and assessment of penalties as provided by law.

**3 AUTHORITIES/REFERENCES.** 19 CFR 181.11, 181.22-23, NAFTA Articles 501-503.

## **4 RESPONSIBILITIES.**

4.1 An exporter or producer who completes and signs a Certificate of Origin, and who has reason to believe that the Certificate contains information that is not correct, shall promptly notify in writing all persons to whom he or she gave the Certificate of any change that could affect the accuracy or validity of the Certificate.

4.2 For goods covered by a blanket certification, it is the exporter's responsibility to advise the importer of any significant changes in, for example, sourcing materials or production methods that may affect the NAFTA claim and furnish the importer with a new Certificate. Producers who provide a Certificate to an exporter must likewise notify the exporter of any such changes.

4.3 An importer who receives information that a Certificate is inaccurate or invalid must make a corrected declaration of origin within 30 days of discovery, and pay any applicable duties, provided the liquidation of the entry summary is not yet final. Failure to correct a declaration that is known to contain inaccurate information may result in the assessment of penalties.

4.4 The Assistant Commissioner, Office of Field Operations, Director, Trade Programs, Directors, Field Operations, Port Directors, and Assistant Port Directors will ensure that these procedures are followed. It is the Port Directors' responsibility to distribute this directive to people doing business with Customs.

## **5 PROCEDURES.**

5.1 A uniform Certificate is used in all three countries and is printed in English, French or Spanish. In the United States, the Certificate is printed in English on Customs Form 434, which is available for sale through local Customs port offices or which may be privately printed. The Certificate may also be produced in an approved computerized format or such other medium or format as is approved by the U.S. Customs Service, Office of Trade Agreements, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Alternative formats must contain the same information and certification set forth on Customs Form 434.

5.2 A Certificate must be completed and signed by the exporter of the goods, or by a party with power of attorney from the exporter. Producers who are not exporters may choose to prepare a Certificate and provide it to the exporter, but there is no requirement that they do so and in no case will this relieve exporters of their obligation to prepare a Certificate if NAFTA preference is to be claimed. Where the exporter/producer is a legal entity such as a corporation, the person signing the Certificate must be a knowledgeable and responsible person with authority to obligate the exporter/producer. The Certificate may be completed in the language of the country of export or the language of the importing country, at the exporter's/producer's discretion. Import Specialists may request a translation of the Certificate if necessary to substantiate a claim for NAFTA benefits.

5.3 The information contained on the Certificate shall be printed, typed or legibly hand-written. Field-by-field instructions for completing the CF 434 are provided on the reverse of the form. Original certificates are not required (i.e., photostatic and fax copies are acceptable).

5.4 A Certificate is required for each importation and covers only those goods specified on the Certificate.

5.5 A single Certificate may be used for a single shipment of goods that results in the filing of one or more entries on the importation of the goods into the customs territory of the United States or for more than one shipment of goods that results in the filing of one entry on the importation of the goods into the customs territory of the United States.

5.6 Blanket Certificates can be used to cover multiple importations of identical merchandise made during a period not to exceed 1 year. Field 2 of the Certificate shall be completed if the Certificate is a blanket Certificate. "FROM" is the date upon which the Certificate becomes applicable to the goods covered by the blanket Certificate. (The "FROM" date may be prior to the date of signing the Certificate; however, the signed Certificate must be in the possession of the importer at the time the claim for preferential tariff treatment is made.) "TO" is the date upon which the blanket period expires. The importation of the goods must occur within the specified dates.

5.7 Certificates are valid provided they are properly completed, signed and dated. A Certificate should be completed to allow the Import Specialist to establish whether the goods it covers are entitled to preferential tariff treatment.

5.9 Import Specialists shall request the Certificate of Origin as they deem appropriate to substantiate claims for preferential NAFTA treatment, allowing a reasonable amount of time for the importer to produce the Certificate. In most cases, a CF 28 will be used to request the Certificate of Origin and a reasonable amount of time will be 30 days. Failure to provide the Certificate of Origin to Customs upon request will result in denial of the NAFTA claim. (See Attachment A for sample wording for a NAFTA "denial" letter sent to the importer for failure to provide the Certificate to Customs upon request.)

5.10 Certificates that are not signed and dated, or are otherwise defective on their face, are not valid. The Import Specialist shall notify the importer via a CF 29 to submit a corrected copy of the Certificate or the claim for preferential tariff treatment will be denied. The importer must be given at least 5 working days from the date of mailing to submit a corrected Certificate. Failure to provide a valid Certificate of Origin to Customs will result in denial of the NAFTA claim. (See Attachment A for sample wording for a NAFTA "denial" letter sent to the importer for failure to provide a valid Certificate of Origin to Customs.)

5.11 As indicated in 19 CFR 181.22(d), and on a case by case basis, Port Directors may waive the requirement that the importer possess a valid Certificate at the time a NAFTA claim is made. Port Directors shall require that requests for waivers be in writing and shall respond to such requests in writing.

5.12 In accordance with Article 503 of the Agreement, and section 181.22, Customs Regulations, Customs does not require a Certificate for non-commercial importations nor for commercial importations with a total line item value of U.S. \$2,500 or less (regardless of whether the entry is formal or informal). \$2,500 refers to the line item value, not the total value of the shipment. For commercial shipments, however, the invoice accompanying the importation shall include a statement certifying that the goods qualify as originating goods, as prescribed in 19 CFR 181.22(d) (iii).

5.13 Port Directors may nevertheless require a Certificate for shipments described in paragraph 5.12 before allowing NAFTA treatment if they reasonably determine that a series of importations was used instead of a single importation to evade the requirement to obtain a Certificate of Origin.

5.14 Certificates are valid for four years from the date on which they were signed. The exporter is required to retain a copy of the Certificate (or the original) for 5 years from the date of signature.

5.15 The facts asserted in the Certificate must be supported by adequate records relating to the good, its materials and production. Customs may deny a claim if the exporter/producer or their agents do not provide additional supporting information when requested.

Assistant Commissioner  
Office of Field Operations

Attachment

Attachment A

Sample Text for CF 29 NAFTA Denial-No CO/Invalid CO  
*[Complete or edit the following paragraphs as appropriate.]*

On [date], a CF 28 Request for Information was issued by this office, requesting a copy of the Certificate of Origin (CF 434) used as the basis for your NAFTA claim on the above-referenced entry.

Inasmuch as no response has been received to this Request for Information, pursuant to 19 CFR 181.23, your claim for NAFTA preference on these goods has been denied.

*[OR, in the case of invalid certificates:* The Certificate of Origin received by this office is not acceptable for the following reasons: [explain why]. If a corrected Certificate is not received by this office within 5 working days, your claim for NAFTA preference on these goods will be denied, without further notification.]

Please address any questions to this office at [phone number]