

PROCEDURES FOR THE ISSUANCE AND LIFTING OF ALERT ORDERS FOR SHIPMENTS WHICH ARRIVE BY AIR AND ARE DECLARED THROUGH THE FORMAL ENTRY PROCESS

BOC CUSTOMS MEMORANDUM ORDER NO. 24-2014, November 04, 2014

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A. Background

- CMO 21-2014, which requires that Alert Orders be issued and lifted in e2m, shall not apply to shipments which arrive in the Philippines by air and which are declared through the formal entry process. Procedures for issuing and lifting Alert Orders for these will be governed by this CMO.

B. General Principles

- No shipment which arrives by air may be held by any Customs official for any reason, except if that shipment is the subject of an Alert Order issued in accordance with CMO 21-2014 or this CMO.

- Except for shipments tagged “red” by the Risk Management Office, and shipments subject to spotcheck upon orders of a District Collector, no shipments may be physically examined except if that shipment is the subject of an Alert Order issued in accordance with this CMO 21-2014 or this CMO.

- If an Alerting Officer as defined in Section C.1 of this CMO becomes aware that any shipment falls under any of the following categories as listed in the Tariff and Customs Code of the Philippines, Section 1401, that Alerting Officer shall issue an Alert Order on that shipment prior to conducting examination on it.

- The government surveyor’s seal on the container has been tampered with or broken or the container shows signs of having been opened or having its identity changed;

- The container is leaking or damaged;

- The number, weight, and nature of packages indicated in the customs entry declaration and supporting documents differ from that in the manifest;

- The importer disagrees with the findings as contained in the government surveyor’s report

- The articles are imported through air freight where the Commissioner or Collector has knowledge that there is a variance between the declared and true quantity, measurement, weight and tariff classification.

- Once an Alert Order is issued on a shipment, that shipment may not be released except in accordance with the procedures outlined in this CMO.

- The owner of a shipment has the right:

- to know whether an Alert Order has been issued on his shipment

- to a speedy disposition of any Alert Order issued on his shipment
- The public has the right to know about any Alert Order for which a shipment, or part of a shipment, was seized or charged additional duties, taxes, and/or penalties.
- For purposes of this CMO:
 - a. An Alert Order is an order issued by an Alerting Officer authorized to do so under this CMO, to not release any part of a shipment until:
 - The shipment is physically examined, and
 - The Alerting Officer authorizes its release, which may be subject to the fulfillment of certain conditions.
 - b. A shipment is defined as the goods covered by a single Master or House Bill of Lading or Airway Bill.
 - c. An entry is the import or export entry for the shipment which is the subject of an Alert Order.
 - d. An item or items are the portions of a shipment for which declarations are made individually. The number of items in a shipment are shown in box 5 of the Single Administrative Document in e2m, or the Import Entry and Internal Revenue Declaration (IEIRD), for the entry. Each item in a shipment, and the item number for that shipment, are as identified in boxes 31 and 32 of the Single Administrative Document or Import Entry and Internal Revenue Declaration (IEIRD) for the entry.

C. Who can issue and lift an Alert Order

1. Alert Orders may be issued only by the following Alerting Officers:

- The Commissioner
 - Deputy Commissioner, Intelligence Group
 - Deputy Commissioner, Enforcement Group
 - All District Collectors, for shipments arriving within their District, including sub-ports within their District
2. Decisions on the final disposition of the Alert Orders-including whether specific items shall be released without payment of additional duties, taxes, and/or penalties, released with payment of additional duties, taxes, and/or penalties, or seized, shall be made by the Alerting Officer which issued an Alert Order on a shipment.
3. Neither the issuance nor the lifting of an Alert Order shall require prior authorization of the Commissioner. However, Alerting Officers must strictly follow the procedures, notifications, and reporting requirements in this CMO.

D. Issuance of Alert Order

1. An Alerting Officer shall issue an Alert Order by performing the following steps:

- Filling out the Alert Order Issuance Form shown in Annex A1 or Annex A2
 - Having the Alert Order Issuance Form sealed and signed by the Office of the Commissioner
 - Sending the Alert Order Issuance Form, sealed and signed by the Office of the Commissioner, to the District Collector (and if applicable, the Sub- Port Collector)
2. If the Alerting Officer is a District Collector, he/she shall fill out the Alert Order Issuance Form and send a copy of it to the Office of the Commissioner.

E. Procedures after issuance of Alert Orders

1. The template for the Alert Order Report is shown in Annex B of this CMO. On the same day that the Alert Order is issued following the procedures in this CMO, Section D, the Alerting Officer should fill out Section A (items 1 to 17) of this form and forward it to the District Collector or Sub-Port Collector of the district or sub-port where the shipment which is the subject of the Alert Order. The Alerting Officer shall also furnish the Office of the Commissioner with a copy of the Alert Order Report Form, Section A.

2. No later than one day after receiving the filled-out section A from the Alerting Officer, the District Collector or Sub-Port Collector shall assign a Point Person for the Alert Order from among the staff of the district or sub-port, and fill in that Point Person's name and contact information in the Alert Order Report Form, Section A, Item 18. This Point Person shall be responsible for:

- Notifying the owner of the shipment and its Customs Broker, that the shipment is the subject of an Alert Order.
- Scheduling the 100% physical examination of the shipment which is the subject of the Alert Order
- Determining and notifying the following of the date, time and location of the examination:
 - The Owner of the shipment
 - The Customs Broker for the shipment
 - The Officer-on-Case for the Alert Order, as designated by the Alerting Officer. If the Alert Order was issued by a District Collector, the Point Person shall be the same as the Officer-on-Case
- Conducting, or causing the conduct by an examiner of, the physical examination of the shipment.
- For each item in the shipment, recording the results of the examination, and the recommend disposition of the Alert Order, to the Alerting Officer. This shall be done using the Alert Order Report Form. The results of the examination shall also be entered in the "Inspection Act" section for the entry in e2m.
- For purposes of recording and comparing any details regarding a shipment, the details "as declared" shall be the descriptions, classifications, quantities, and values as declared in the SAD in e2m. If there is any discrepancy between the information in the SAD in e2m and the IEIRD, the Point Person shall use the information in the IEIRD if and only if the importer or its broker submitted the IEIRD before the Alert Order was issued.

3. The examination should be conducted as soon as possible, and unless there are justifiable reasons for delay, within one week after the issuance of an Alert Order.

4. No later than one day after the conduct of the physical examination, the Point Person shall fill in the following sections of the Alert Order Report Form

- Section B, sub-sections 19-21
- For each item:
 - Section B, sub-section 22, sub-items (i) to (xi)
 - Section B, sub-section 23, Detailed Calculations

5. No later than one day after the conduct of the physical examination, the filled out Alert Order Report Forms shall be submitted by the Point Person to the Officer-on-Case

6. The Officer on Case shall review the recommendations of the Point Person and shall add any comments on the

recommendation of the Point Person to the Alert Order Report Form, Section B, sub-section 22, sub-item (xii), and sign it in sub-item (xiii).

7. No later than one day after the conduct of the physical examination, the Officer-on-Case shall then submit the Alert Order Report Form, filled up completely except for Section B, sub-section 22, sub-items (xiv) to (xviii), to the Alerting Officer.

F. Final Decision on the Alert Order

1. No later than two days after the conduct of the physical examination, the Alerting Officer shall make a final decision for each item in the shipment subject to an Alert Order and record that decision in the Alert Order Report Form, Section B, sub-section 22, sub-items (xiv) to (xviii).

2. The Alerting Officer shall send a copy of the Alert Order Review Form, now fully filled out and signed, to the District Collector or Sub-Port Collector, furnishing a copy to the Office of the Commissioner

3. If the final decision for any item is the issuance of a Warrant of Seizure and Detention, the District Collector or Sub-Port Collector shall issue such Warrant of Seizure and Detention on the relevant items and initiate forfeiture proceedings as soon as possible.

4. If the final decision for any item is the payment of additional duties, taxes, and/or penalties, the District Collector or Sub-Port Collector shall ensure that any additional amounts that are due for any part of an import entry are paid before releasing or causing the release of goods declared under that import entry which are not the subject of a Warrant of Seizure and Detention.

5. Upon:

- Segregation of any items covered by a Warrant of Seizure and Detention, if any such items are so covered
- Payment of any additional duties, taxes, and/or penalties, if any are due

the District Collector or Sub-Port Collector shall release, or cause the release, of the shipment as soon as possible.

G. Tentative Liquidation and Payment Under Protest for Shipments under Alert Orders

1. In accordance with the Tariff and Customs Code of the Philippines, Section 2503, undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry, and the actual value, weight, quantity, or measurement shall constitute a prima facie evidence of fraud. Therefore:

- The procedures for tentative liquidation described in the Tariff and Customs Code of the Philippines, Section 1602, may only be used to secure the release of shipments under an Alert Order if, after examination, the Alerting Officer determines that there is no undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry.

- The procedures for payment under protest described in the Tariff and Customs Code of the Philippines, Sections 2308-2312, may only be used to secure the release of shipments under an Alert Order if, after examination, the Alerting Officer determines that there is no undervaluation, misdeclaration in weight, measurement or quantity of more than thirty percent (30%) between the value, weight, measurement or quantity declared in the entry.

H. Sanctions for Non-Compliance with this CMO

1. Holding of any shipment without going through the process outlined in this CMO shall be a Grave Offense as used in CMO 25-2010, Title IV, Section I, and shall be punishable upon first offense by Dismissal.

2. Non-compliance with any provision of this CMO shall be an incidence of Simple Neglect of Duty as used in CMO 25-2010, Title IV, Section 2, and shall be punishable upon second offense by Dismissal.

(SGD) JOHN P. SEVILLA
Commissioner

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