

September 23, 2008



**U.S. Customs and
Border Protection**

08-098
ENT-1-CL:PD:FO EPG

CLEVELAND AREA PORT PIPELINE

**TO : All Importers, Brokers, Customs and Border Protection Officers and Other
Interested Parties**

**SUBJECT: Clarification on Reporting Procedures for First Sale Declaration
requirements under Food, Conservation, and Energy Act of 2008**

The First Sale Declaration Requirement of the Food, Conservation, and Energy Act of 2008 became effective August 20, 2008. Members of the trade community are reminded that reporting procedures for First Sale Declaration are not optional. In a memorandum dated September 3, 2008, CBP gave the trade a vehicle for retroactive reporting of First Sale Declaration for entries filed between August 20, 2008 and September 19, 2008. Please note that this retroactive reporting must be presented to CBP by close of business September 26, 2008. Please see the previous memorandum if you are uncertain of the proper procedures for retroactive reporting.

Beginning on September 20, 2008 all entries which are subject to First Sale Declaration Requirements must contain an "F" adjacent to the entered value at the line level on CBP Form 7501 (or its electronic filing equivalent). Currently this requirement is effective for one year, and is scheduled to conclude on August 19, 2009. CBP is mandated by law to collect this data during the aforementioned period. In cases where first sale is found to be undeclared, adverse action may be taken.

Specific examples of importations which would be subject to these requirements can be found under the following court cases:

Nissho Iwai American Corporation vs. United States, Slip Op. 92-1239 (U.S. Court of Appeals for the Federal Circuit) and;

Synergy Sport International Ltd. vs. United States, Slip Op. 93-5 (U.S. Court of International Trade).

Note that these cases are not all inclusive examples of importations that would be subject to the First Sale Declaration requirements. Questions regarding First Sale Declaration requirements should be directed to Ms. Cynthia Whittenburg, Chief, Entry Summary and Drawback at (202) 863-6519 or email to Cynthia.Whittenburg@dhs.gov

Questions regarding this pipeline should be addressed to the Import Specialist Team handling the merchandise in question, or Import Specialist Kent Adams at (440) 891-3827.

A handwritten signature in black ink, reading "Marc A. Hurteau". The signature is written in a cursive style with a prominent initial "M" and a long, sweeping underline.

Marc A. Hurteau
Area Port Director