

December 8, 2014

U.S. Customs and Border Protection
Regulations & Rulings Branch
90 K Street N.E., 10th floor
Washington, D.C. 20229-1177

Attention: Tracey Denning

Re: Importer ID Input Record – CBP Form 5106

Dear Ms. Denning:

The National Customs Brokers and Freight Forwarders Association of America (“NCBFAA”) is writing in response to the request for comments on the proposed changes to CBP Form 5106. As the nationwide association of customs brokers, freight forwarders, and non-vessel operating carriers, the NCBFAA’s members are responsible for submitting the vast majority of CBP Form 5106’s on an annual basis.

The NCBFAA unequivocally supports the efforts of U.S. Customs and Border Protection (“CBP”) to enhance the security of our nation’s borders and we understand that gathering additional information about the companies that are importing merchandise into the United States is a strategy which could facilitate that mission. The Association’s goal is to work with CBP to develop a process which will provide CBP with meaningful information without creating an undue burden on legitimate trade. With that in mind, we offer the following comments:

1. **The proposed information collection effort raises serious privacy concerns.** The proposed CBP Form 5106 requires companies (banking information) and corporate officers (direct email, social security numbers, passport information) to provide private and confidential information. This will expose this information to collection and retention by third party service providers (such as customs brokers) who may not have sophisticated procedures for maintaining the privacy of this type of information. While brokers are generally not permitted to disclosure their client’s confidential business information to third parties, it is not reasonable to expect brokers to develop

internal security systems which go beyond the existing regulatory standards and require them to restrict access to this information from their own employees as a means of safeguarding the security of this personal data. Brokers who are unable to guarantee the safety of this information may face the loss of business and/or potential liability from impacted individuals. This is an unfair burden to impose on the customs brokerage industry.

2. **CBP has understated the amount of time required to prepare the CBP Form 5106.** Completion of the proposed CBP Form 5106 will likely require input from multiple individuals within an organization and it is highly unlikely that the various individuals required to provide this information will have the data readily available. For example, whereas the import/logistics personnel may be able to complete sections 1 and 2, it is unlikely that they will have access to the NAICS code or DUNS Number (or even know what they are). The corporate information required in sections 3F, 3H and 3I will require the review of corporate records; the financial information required in section 3G will have to be obtained from the individual responsible for the finance function. The corporate officers responding to section 3J will have to review their personal records to provide their passport details. All of these individuals will require explanations and guidance from their service providers. Whereas CBP has suggested that the estimated time to complete form will be 30 minutes, it will more likely take most companies and their brokers several hours to complete and obtain the proposed CBP Form 5106.
3. **CBP needs to clarify when a new CBP Form 5106 will be required.** The proposed CBP Form 5106 requires a significant amount of corporate information in a non-static corporate environment. Companies move, re-organize and change officers on a regular basis. If an officer is no longer associated with the company, is there an obligation to submit a new CBP Form 5106? CBP needs to clarify when this information must be updated. Is it the importer's obligation to keep this information current?
4. **It is unclear which data elements are mandatory and which are optional.** The instructions to the proposed CBP Form 5106 seem to suggest that much of the information in section 3 of the proposed form is optional (with the exception of 3J). CBP should clarify this issue. Similarly, as there are number of different scenarios which will require the submission of a new CBP Form 5106 or an update to the existing information on file, CBP needs to clarify which data elements are required in these different scenarios. For example, it is highly unlikely that the importer will be able to obtain the section 3 information when a CBP Form 5106 is required for an ultimate consignee. What procedures are to be filed if one or more fields is not applicable to the importer? For example, a small or start-up company may not have a DUNS or NAICS code. Similarly, are all these fields required when a CBP Form 5106 is filed for a drawback claimant? In addition there are references to program codes, for example 1J, 1K, 1L. An explanation of the codes needs to be provided. We would like clarification on the proposed data element 3D which seems to link brokers



and self-filers into a data requirement. CBP should enhance the preparation instructions to clarify these issues.

5. **CBP needs to clarify when information on company officers will be required.** It has been suggested that the information required under section 3J of the proposed form would only be required for “new” importers. CBP needs to clarify this issue and define what constitutes a “new” importer.

The National Customs Brokers and Forwarders Association of America, Inc. appreciates the outreach CBP has conducted as the revisions to the Form 5106 were considered and further appreciates the opportunity to provide these comments. We would be happy to provide any further input which CBP would find helpful.

Yours truly,



Geoff Powell
President
National Customs Brokers and Forwarders Association of America, Inc.

Cc Mary Jo Muoio, Chair NCBFAA Customs Committee
Alan Klestadt, Esq., Customs Counsel to the NCBFAA

