



July 6, 2007

CUSTOMS MEMORANDUM ORDER  
NO. 18-2007

To: **COLLECTORS OF CUSTOMS  
SERVICE/DIVISION CHIEFS  
REGISTERED IMPORTERS  
ALL OTHERS CONCERNED**

Subject: **Rules and Regulations Implementing the Customs Voluntary  
Disclosure Program (VDP) pursuant to CAO 5-2007**

**I. OBJECTIVES**

1. To provide a set of guidelines to govern the documentation, processing, evaluation, disposition, and implementation of applications for voluntary disclosure under the VDP.
2. To facilitate action on voluntary disclosure applications to generate immediate customs revenue thereon.
3. To promote customs and trade compliance among importers and other customs stakeholders at the border.

**II. ADMINISTRATIVE PROVISIONS**

1. To assist the importer in ensuring the completeness and accuracy of the application for Voluntary Disclosure, there is hereby provided a Voluntary Disclosure Checklist (Form A), a copy of which is attached as Annex "A".
2. There shall be a standard voluntary disclosure application format denominated as the Voluntary Disclosure Form (Form B), a copy of which is hereto attached as Annex "B" and made an integral part of this Order. Application Forms shall be made available at the Office of the Assistant Commissioner of the Post Entry Audit Group and the Office of the Collector of Customs of every Port/District.

copy of the Official Receipt through an appropriate inter-office endorsement stating the name of the applicant and the amount of duties and taxes paid as disclosed. Format of the Indorsement is hereto attached as Annex "C".

3. The duly accomplished Form B, together with the required documentary attachments which shall all be properly marked and certified by the applicant, as well as the original copy of the Official Receipt of payment, shall be filed with the Office of the Assistant Commissioner of the Post Entry Audit Group. The original Official Receipt shall be returned to the applicant after the same has been viewed and examined by the responsible evaluating officer at the Office of the Assistant Commissioner for PEAG.

**Step Two**

4. The duly accomplished Form B shall be processed and evaluated by the designated officer of the SVU, who shall perform the following functions :
  - 4.1 Verify the completeness of the information provided by the applicant in the accomplished Form B.
  - 4.2 Check the sufficiency of the documents attached, including the payment of duties and taxes as disclosed, and/or the information provided to support the voluntary disclosure and necessary to conduct effective disclosure verification.
  - 4.3 Ensure that the application form is accompanied by a comparative computation table showing (a) tariff classification or customs unit value, etc., originally declared as against the tariff classification or customs unit value, etc. as disclosed and (b) the duties and taxes originally paid and those resulting from the voluntary disclosure.
  - 4.4 Determine whether the applicant is qualified under the coverage and exclusionary clauses of the VDP program as provided for in Section V of CAO 5-2007.
  - 4.5 When the formal requirements are incomplete or otherwise not complied with, or when the applicant is not qualified under Section 4.3 above, the evaluating officer shall advise the applicant in writing of such fact and provide him with a period of fifteen (15) working days within which to complete or comply with the formal requirements. If after the lapse of the period given, the applicant remains non-compliant, the voluntary disclosure application shall be denied by the Assistant Commissioner, PEAG with formal notice to the applicant.

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- 4.6 Once the completeness and validity as to form of the duly accomplished Form B has been established, the assigned officer shall conduct a disclosure verification, in coordination with the Trade Information Risk Analysis Office (TIRAO), on the disclosed customs issues, product lines, tariff headings; customs value, number of import entries, and the like, using the standard operating procedure to be established for the purpose. When necessary, the evaluating officer may request the applicant to appear before the office or to submit further information/document to clarify any matter which is the subject of the voluntary disclosure made.
- 4.7 Review the basis and accuracy of the computation made by the disclosing party with respect to the disclosed declaration errors or mistakes. When the disclosed deficiency is based on royalty or license fee payments conditioned on local, after-import sales, or on proceeds from subsequent resale of the imported goods, the evaluating officer shall recommend a formula of computation to ensure a fair and reasonable accounting of such deficiencies using the generally-accepted accounting and auditing principles (GAAP) and methods.
- 4.8 While the coverage of the verification shall be limited to the matters as disclosed, the evaluating officer may recommend the conduct of a full audit when fraud is uncovered or evident bad faith in the disclosure made is established at any stage of the evaluation process.
- 4.9 Prepare and submit a brief summary of findings and recommendations, through the Director, Compliance Audit Office, to the Assistant Commissioner, PEAG for office approval.

**Step Three**

5. The Assistant Commissioner, PEAG, shall evaluate the findings and recommendations of the SVU and direct such actions as may be necessary to complete staff action on the matter.
  - 5.1 When the recommendation is for the acceptance of the application on the ground that the deficiency in duties and taxes proceeded from innocent error or plain negligence, he shall require the applicant to submit a Customs Compliance Improvement Plan (CCIP) as described in the succeeding Section IV 2.1 of this Order. The CCIP format is hereto attached as Annex "D" of this Order.

END-12-2007

5.2 When the recommendation is for the denial of the voluntary disclosure application on account of the existence of fraud as uncovered, or of bad faith (as when material information available to the applicant is knowingly withheld to intentionally mislead customs) in the disclosure itself as established during the verification process, the PEAG shall, after due notice, initiate action leading to the conduct of full audit of the applicant firm following the existing procedure without prejudice to the institution of an enforcement investigation as the Commissioner of Customs may direct.

5.3 The recommended action to be taken on the voluntary disclosure application shall be forwarded to the Commissioner of Customs for final approval.

**Step Four**

6. The approved action shall be returned to the Assistant Commissioner, PEAG, for implementation with notice to the applicant.

**IV. BENEFITS OF A VALID VOLUNTARY DISCLOSURE**

- 1. No fine or penalty shall be imposed on the deficiency in duties and taxes but only to the extent of the amount and the issues disclosed.
- 2. The applicant shall earn a "least priority status" in the annual audit selection process for all its auditable importations, subject to the following conditions:
  - 2.1 Submission by the applicant of a customs compliance program designed specifically to address the cause or causes of the errors or mistakes made in the entry declarations as disclosed and generally to enhance the level of competence of its personnel, agents, or officers in charge of its import clearance operations.
  - 2.2 Compliant behavior established through random sampling and review of future import activities showing faithful and serious implementation of its customs compliance program.
  - 2.3 Amount of voluntary disclosure payment is not less than One Million (PHP1,000,000.00) Pesos per application.

"Least priority status" shall mean that the importer may not be considered for audit selection for the next two years from the date of application.

V. **SEPARABILITY CLAUSE**

*END - 18-2007*

The provisions of this Order are hereby ordered separable and in case any of the provisions hereof are declared invalid, the other provisions, which are not affected, shall remain in full force and effect.

VI. **REPEALING CLAUSE**

All Orders, Memoranda, Circulars, or parts thereof, which are inconsistent herewith, shall be deemed repealed and/or modified accordingly.

VII. **EFFECTIVITY DATE**

This Order shall take effect immediately.



07-02973  
Napoleon L. Morales

**NAPOLEON L. MORALES**  
Commissioner  
*[Handwritten signature]*



Republic of the Philippines  
Department of Finance  
**Bureau of Customs**  
1099 Manila



June 7, 2007

*CMO - 18 - 2007*

MEMORANDUM for --

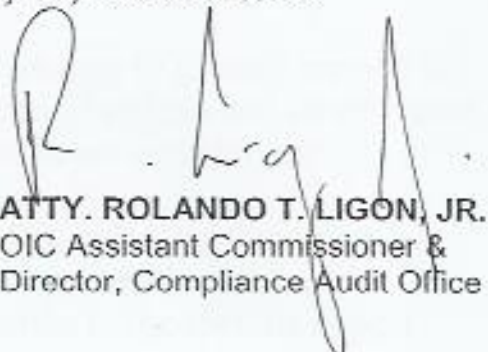
**NAPOLEON L. MORALES**  
Commissioner

SUBJECT: **CMO implementing CAO 5-2007 or the Voluntary Disclosure Program**

In compliance to the marginal notation of the Commissioner referring to Section VII of CAO 5-2007 saying "URGENT Director Ligon, For appropriate action", we are submitting the attached draft Customs Memorandum Order implementing CAO 5-2007 entitled VOLUNTARY DISCLOSURE PROGRAM.

Informatively, the proposed regulation is the product of discussions and consultations with the EMERGE team headed by Atty. Alex Gaticales.

For signature.



**ATTY. ROLANDO T. LIGON, JR.**  
OIC Assistant Commissioner &  
Director, Compliance Audit Office

**CUSTOMS VOLUNTARY DISCLOSURE CHECKLIST**

The checklist of questionnaires provided below should assist an importer in ensuring the completeness and accuracy of the disclosure to be made under the Voluntary Disclosure Program (VDP).

1. Is the disclosure being submitted in accordance with the requirements provided under the VDP?
2. Is the person responsible for the disclosure knowledgeable with customs laws and regulations relating to merchandise description, valuation, classification, country of origin/marketing, tariff preferences, record keeping and other matters relating to the proper assessment of duties and taxes on imported articles?
3. Has the class of articles or set of import transactions been identified for disclosure by identifying the import entry number, port of entry and date of entry?
4. Are the records and business information relating (e.g. audit support to the value declarations) to the particular class of articles and set of import transactions available and accessible for customs verification?
5. Has the specific erroneous, inaccurate, or insufficient information declared to customs arising from sheer mistake, inadvertence, or negligence been properly identified in relation to the specific import transactions to be disclosed?
6. Are all the import transactions and articles involved (together with the specific port of entry) been properly identified for disclosure?
7. Are the tax and duty calculations resulting in additional taxes and duties properly and sufficiently prepared? If yes, is the tender of payment ready to be submitted together with the VDP application?

200-18-7007

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF CUSTOMS**  
MANILA 1099

**FORM B:**  
**VOLUNTARY DISCLOSURE**

**PART I PARTICULARS (Fill in where applicable)**

Importer :		TIN:	
Address :		Telephone No :	FAX
		E-Mail	
Authorized/Responsible Person:	Designation :	Telephone	FAX
		Email :	

**PART II DISCLOSURE DESCRIPTION (Use back portion if necessary)**

Entry No.	Port**	Issue*	Duties (PhP)			Taxes (PhP)		
			As Paid	As Disclosed	Deficiency	As Paid	As Disclosed	Deficiency

Total deficiencies (PhP)

\*Code for type of issue: A - Valuation B - Tariff Classification C - Under Quantity  
D - Special Privileges / Preferential Tariff rates E - Others, specify

\*\*Manila, MICT, NAIA, Cebu, Batangas, Davao, Subic, Clark, San Fernando, Cagayan de Oro, Iloilo, Tacloban, Surigao, Legaspi, Zamboanga

Note: Please use back page for additional entries

**Part III. Attached Documents (Please check)**

<input type="checkbox"/> Computation sheets per Entry of Disclosed issue <input type="checkbox"/> Import Entries <input type="checkbox"/> Commercial Invoice <input type="checkbox"/> Packing List <input type="checkbox"/> Purchase Orders <input type="checkbox"/> Bills of Lading / Airway Bills	<input type="checkbox"/> Agreements or contracts, if any <input type="checkbox"/> Product Brochures /Literature <input type="checkbox"/> Proofs of Payment <input type="checkbox"/> Import Permits /Licenses for regulated products <input type="checkbox"/> Applicable Country of Origin (CO) or Form D <input type="checkbox"/> Other pertinent documents (please specify)
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**PART IV DECLARATION**

I, ..... [Full name of Authorized Person in BLOCK letters] hereby declare that all the information herein provided are true and correct to the best of my knowledge and that the tender of payment as evidenced by MC # \_\_\_\_\_ is being made in compliance with CAO \_\_\_\_\_.

Signature : \_\_\_\_\_  
Date : \_\_\_\_\_

**PART V FOR PEAG USE ONLY**

VPD Docket No	Date Filed:
Received by:	Signature & Date :

322-100002







Republic of the Philippines  
Department of Finance  
**Bureau of Customs**  
1099 Manila

Annex C

LMO-12-2007

## Port of Manila

1<sup>st</sup> Indorsement

\_\_\_\_\_  
Date

Respectfully forwarded to the Commissioner of Customs (Attention: Assistant Commissioner, Post Entry Audit Group), the within application of \_\_\_\_\_ (company name) \_\_\_\_\_ for participation under the Voluntary Disclosure Program as provided for under CAO \_\_\_\_\_ and CMO \_\_\_\_\_, together with BCOR No. \_\_\_\_\_ issued in the name of applicant evidencing receipt of tender of payment more particularly described as follows:

MANAGERS CHECK NO. \_\_\_\_\_  
DATE OF ISSUE \_\_\_\_\_  
AMOUNT \_\_\_\_\_  
ISSUING BANK/BRANCH \_\_\_\_\_

HORACIO P. SUANSING, JR.  
District Collector

## CUSTOMS COMPLIANCE IMPROVEMENT PLAN (CCIP)

Company Name:			
Date Prepared:			
Company Official:			
COMPANY IMPROVEMENT PLAN			
Specific Disclosure / Deficiency	Corrective Action	Target Date for Completion of Corrective Action	Responsible Officer / Department
Approving Customs Official:			
Date of Approval:			

LMO - 8 / - 2007

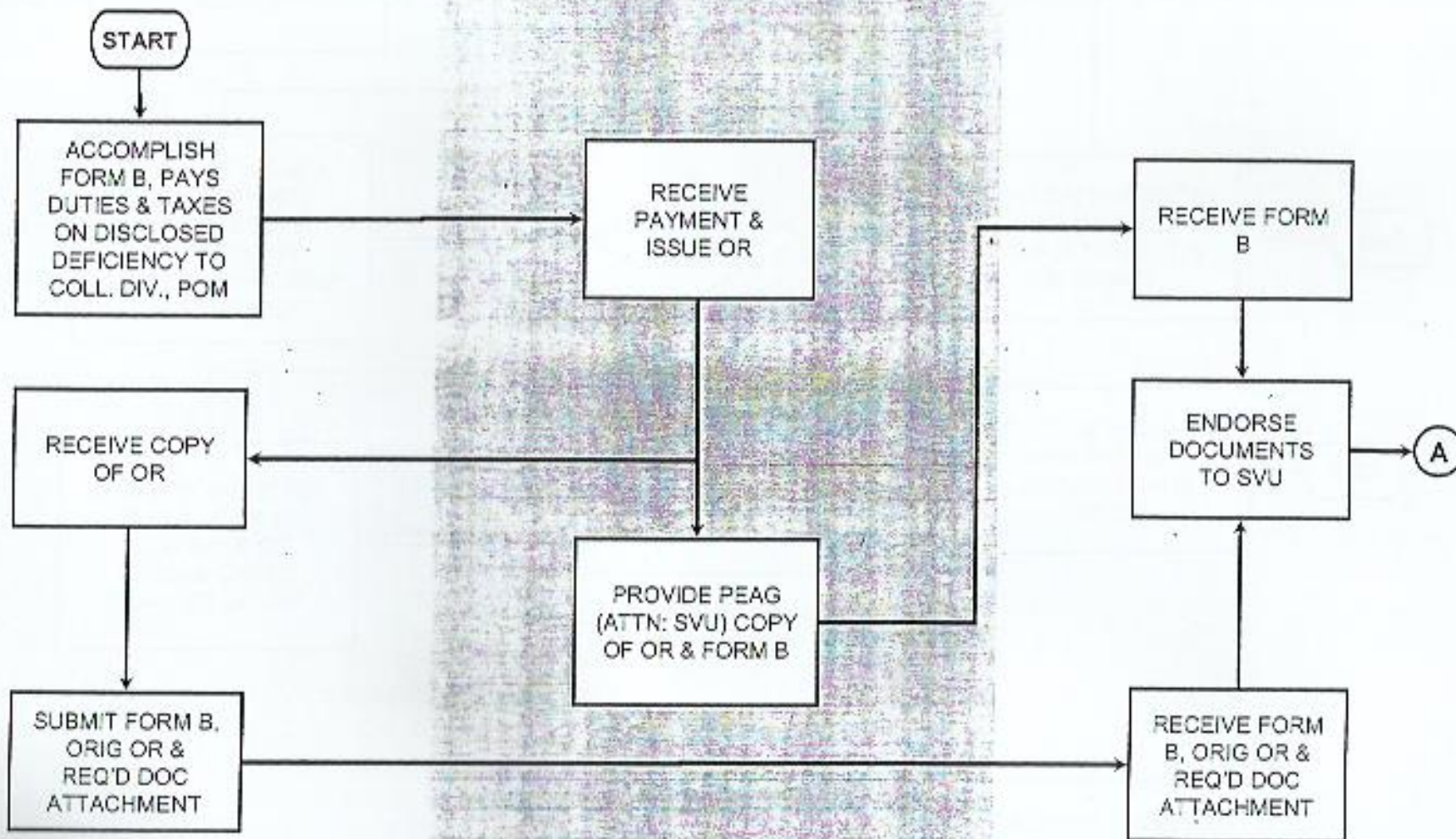
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IMPORTER

COLLECTION  
DIV., POM

OFFICE OF ASST.  
COMM. PEAG

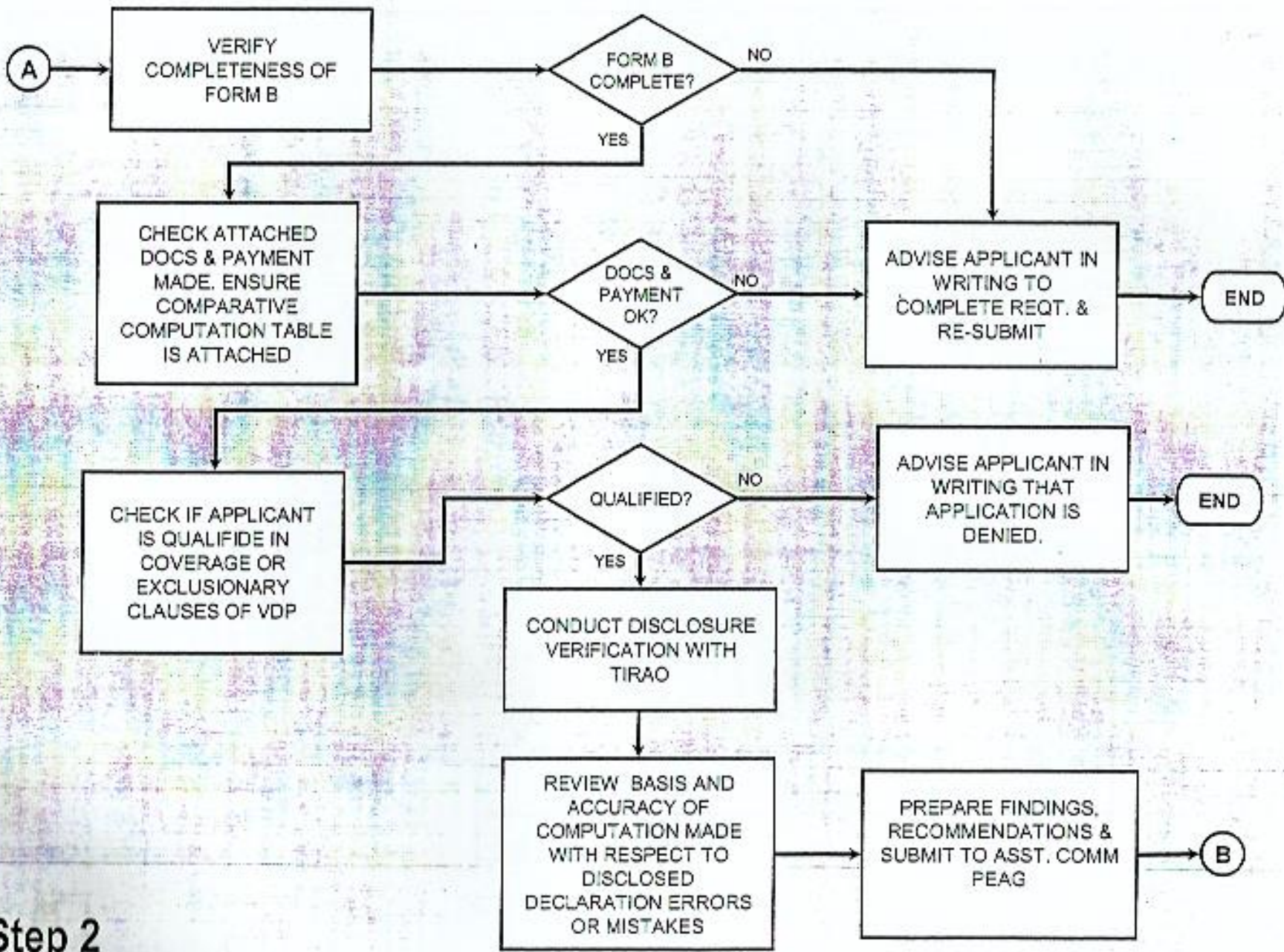
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Step 1

PEAG – SPECIAL VERIFICATION UNIT (SVU)

100-18-2007



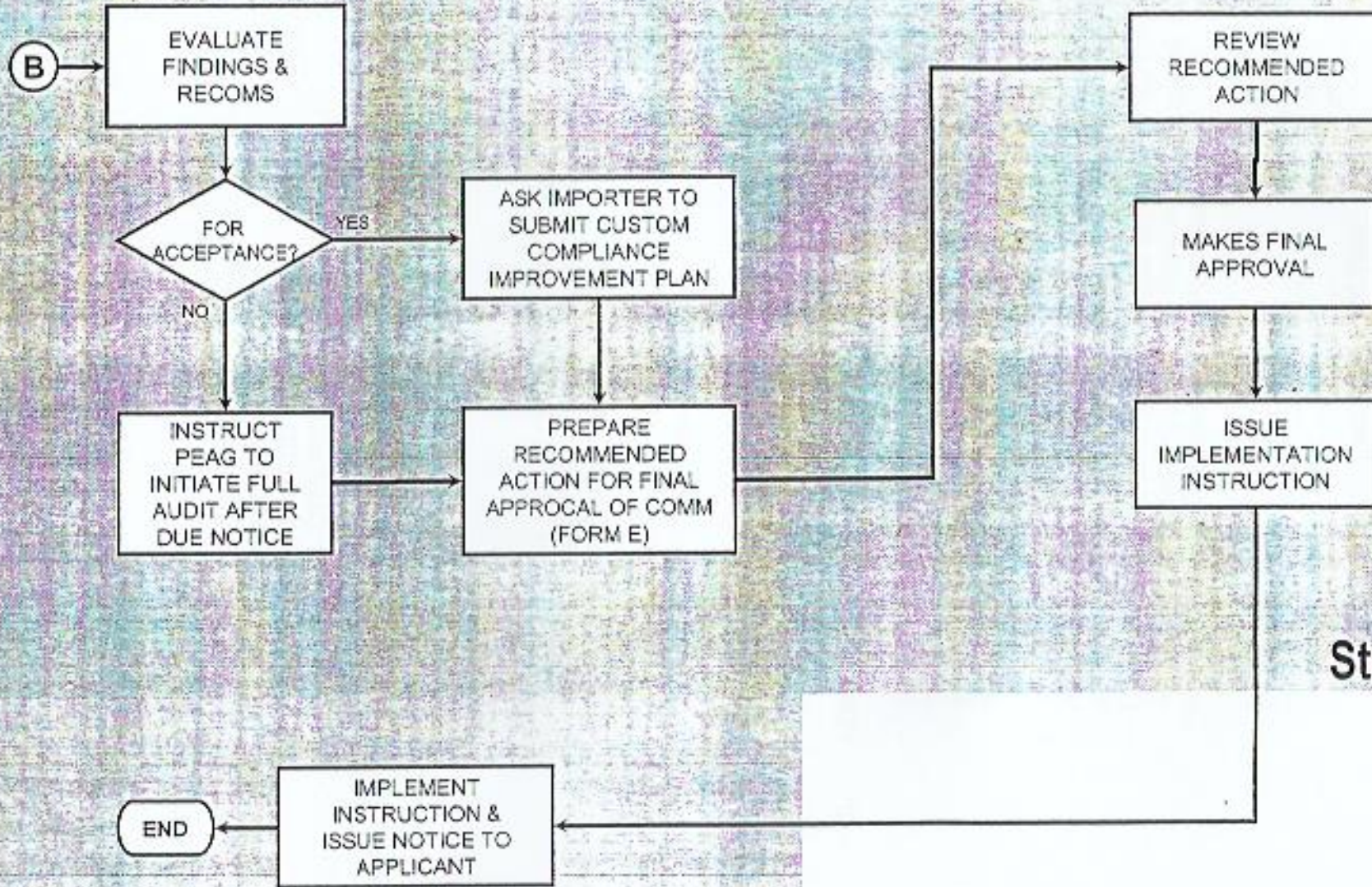
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Step 2

2002-81-2007

OFFICE OF ASST.  
COMM. PEAG

OFFICE OF  
COMMISSIONER



Step 3

Step 4

(15-1)