

MAR 02 2015



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

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
OFFICE OF FIELD OPERATIONS

DIRECTOR, PRECLEARANCE OPERATIONS
OFFICE OF FIELD OPERATIONS

FROM:

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Acting Executive Director
Admissibility and Passenger Programs
Office of Field Operations

SUBJECT: CBP Policy Statement on Equal Treatment of Same Sex Married
Couples as Opposite Sex Married Couples

This is a policy statement expressing U.S. Customs and Border Protection (CBP)'s commitment to providing equal treatment to all legally married couples, irrespective of whether the couple is opposite-sex or same-sex.

This policy follows a Supreme Court decision which held that Section 3 of the Defense of Marriage Act (DOMA) was unconstitutional, eliminating barriers faced by thousands of legally married same-sex couples when seeking important federal benefits, including immigration benefits. *United States v. Windsor*, 133 S. Ct. 786 (2013). The Department of Homeland Security (DHS) issued its policy statement on June 19, 2014, directing that same-sex married couples be treated in the same manner as opposite sex married couples.

Adoption of this policy has practical implications for CBP. All legally married couples arriving at ports of entry or otherwise being inspected or processed by the Office of Field Operations shall be accorded equal treatment irrespective of whether the couple is opposite-sex or same-sex. In addition, CBP issued a final rule, effective on January 17, 2014, broadening the definition of "members of a family residing in one household". Under the regulations, same-sex or opposite-sex married couples can file a joint declaration and aggregate their duty exemptions accordingly.

If you have any questions or concern, please contact (b) (6), (b) (7)(C), Branch Chief or (b) (6), (b) (7)(C), Director, Enforcement Programs Division at (b) (6), (b) (7)(C)

Attachment

Muster

Date: Upon Receipt

Topic: Equal treatment of same sex married couples as opposite sex married couples

Headquarters POC: (b) (6), (b) (7)(C), Branch Chief, (b) (6), (b) (7)(C)

References: United States v. Windsor, 133 S. Ct. 786 (2013)
19 C.F.R. §§ 148.34(b), 148.34(c), and 148.103(b)

Office: Admissibility and Passenger Programs
Enforcement Programs Division

- U.S. Customs and Border Protection (CBP) has a commitment to provide equal treatment to all legally married couples, irrespective of whether the couple is opposite sex or same sex married couples.
- This CBP policy is in compliance with the civil rights case of United States v. Windsor, 133 S. Ct. 786 (2013), which held that Section 3 of the Defense of Marriage Act (DOMA) was unconstitutional. U.S. federal application of “marriage” and “spouse” only to opposite sex unions is unconstitutional under the Due Process Clause of the Fifth Amendment.
- On June 19, 2014 the Department of Homeland Security (DHS) issued a Department wide policy statement directing same sex and opposite sex legally married couples be treated in the same manner with dignity and respect.
- All legally married couples arriving at ports of entry or otherwise being inspected or processed by Office of Field Operations (OFO) personnel must be treated in the same manner.
- CBP issued a final rule, effective on January 17, 2014 that broadened the definition of “members of a family residing in one household” to mean that same sex or opposite sex legally married couples can file a joint declaration and aggregate their duty exemptions.