
❖ SPC & B Update ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

June 24, 2011

CBP Clarifies Procedures for PEAs, PSCs, and Post-Import Preference Claims



Customs & Border Protection has issued additional clarifications of its procedures for post entry changes, as follows.

Post Entry Corrections of ACE Entries

As discussed in our May 31, 2011, *Update*, CBP deployed enhanced Automated Commercial Environment (ACE) capabilities on June 4, 2011, to allow for Post Summary Corrections (PSC) for entry summaries filed in ACE. PSCs may be submitted for existing ACE entry types 01 and 03 entry summaries. The PSC process is replacing Post Entry Amendments (PEA) for entry summaries filed in ACE. **Accordingly, CBP has confirmed that hard copy PEAs will no longer be accepted for entry summaries filed in ACE, effective September 22, 2011.**

PEAs or PSCs with AD/CVD Cash/Bonds Due

CBP stated that for any PEA or PSC that results in antidumping or countervailing duty cash deposits or bond being due, the deposits or bond are due with the submission of the PEA or PSC. Failure to submit the duties with the post entry correction may result in the assessment of liquidated damages.

PEA/PSC Not Proper Venue for Submitting Prior Disclosure

In addition, CBP clarified that a PEA or PSC should not be used to submit a Section 592 prior disclosure. Rather, disclosures should be submitted separately, in accordance with the procedures set forth in 19 CFR 162.74.

Post-Import Preference Claims

Programs such as NAFTA and DR-CAFTA allow for a post-importation preference claim to be made within one year from the date of importation, if a claim was not made at the time of importation, under 19 USC 1520(d). CBP issued a memorandum clarifying that the Section 520(d) claim can only be used to make the preference claim and that if there are any other claims being made with respect to the same entry, such as a classification change, they must be submitted under the usual PEA/PSC or protest procedures, depending on whether the entry has liquidated.

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Accordingly, if an importer is filing a Section 520(d) post–entry claim under a preference program, but also wishes to change the classification of the same product or another product covered by the entry, and the entry has not yet liquidated, a PEA or PSC for the classification error should be filed simultaneously with the 520(d) preference claim. 520(d) claims should reference any PSC filed in ACE to ensure that classification changes are taken into account before the 520(d) is processed. Similarly, for liquidated entries, a protest should be submitted simultaneously with the 520(d) claim.

For additional information on corrections and adjustments to entries, please contact Gail Cumins at gcumins@spcblaw.com or Donna L. Shira at dshira@spcblaw.com, or call us at 212-425-0055.