

CBP Modifies Post-Entry Amendment Processing Test

By Beata Spuhler

DrinkerBiddle

In an August 2007 *Federal Register* notice, U.S. Customs and Border Protection (CBP) announced that if a single post-entry amendment (PEA) is submitted to CBP in a timely fashion, but the entry summary liquidates without taking the PEA into consideration, the PEA would be treated by CBP as a protest under 19 U.S.C. § 1514. *See* 72 Fed. Reg. 46,654 (August 21, 2007). On April 11, 2008, however, CBP announced it would no longer automatically convert such single PEAs into protests. *See* 73 Fed. Reg. 19,865 (April 11, 2008).

In its April 11 notice, CBP indicated that it may voluntarily reliquidate certain entries under 19 U.S.C. § 1501 within 90 days of the original liquidation date if it believes an error occurred at the time of liquidation. The remaining entries will have to be proactively protested by importers under 19 U.S.C. § 1514 because they will not be automatically converted by CBP into protests. CBP states that taking such action would be contrary

to the language of 19 U.S.C. § 1514, which requires that a protest be filed subsequent to liquidation. We are looking into whether CBP had actually converted any PEAs into protests after the August 2007 notice.

CBP typically provides no notice to importers (or their brokers) when a PEA has been accepted or rejected. Rather, the entry must be reviewed upon liquidation to determine whether the change requested was taken into consideration by CBP when liquidating the entry. This additional change to PEA processing further demonstrates the importance of tracking PEAs once they are filed to ensure that the subject entries liquidate with the benefit of the requested amendment. If the importer (or its broker) discovers that the entry has not liquidated with the desired changes, the only recourse the importer has is to file a protest under 19 U.S.C. § 1514 within 180 days of the liquidation date.

Customs & Trade Practice Group

Questions regarding the PEA process or the modifications described above can be addressed to any member of the Drinker Biddle & Reath Customs and Trade Practice.

Kathleen Murphy
Chair, Partner
(312) 569-1155
Kathleen.Murphy@dbr.com

Therese Ignich
Trade Specialist
Licensed Customs Broker
(312) 569-1582
Therese.Ignich@dbr.com

Joan Koenig
Counsel
(312) 569-1163
Joan.Koenig@dbr.com

Karen Lobdell
Global Trade and Supply Chain
Specialist, Licensed Custom Broker
(312) 569-1066
Karen.Lobdell@dbr.com

Randy Rucker
Counsel
(312) 569-1157
Randy.Rucker@dbr.com

James Sawyer
Partner
(312) 569-1156
James.Sawyer@dbr.com

Beata Spuhler
Associate
(312) 569-1158
Beata.Spuhler@dbr.com

Michelle Welsh
Associate
(312) 569-1172
Michelle.Welsh@dbr.com



LAW OFFICES | CALIFORNIA | DELAWARE | ILLINOIS | NEW JERSEY
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Jonathan I. Epstein and Edward A. Gramigna, Jr., Partners in Charge of the
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