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CBP: Over $130B in IEEPA Refunds Accepted for Processing; CAPE Phase 3 Still Delayed

About $132.5 billion in "potential and certified refunds" have been accepted for processing in the Consolidated Administration and Processing of Entries (CAPE) system as of Aug. 21 at 3 p.m. ET, according to an Aug. 25 declaration from Brandon Lord, executive director of CBP's trade programs directorate (*Freestyle World v. United States*, CIT # 26-01088).

The declaration was filed at the Court of International Trade in the *Freestyle World* case, which was designated as the lead case in the International Emergency Economic Powers Act refund process by the court in July (see ITT 07/21/2026).

Lord also confirmed that the deployment of CAPE Phase 3 -- focused on finally liquidated entries where the importer filed a lawsuit and obtained an individual reliquidation order from the trade court -- was "temporarily delayed" by CBP.

"This delay is necessary for CBP to build new validations that ensure no other duty adjustments are made to finally liquidated entries outside of the IEEPA duty refunds," Lord said. "Importantly, these new validations will also account for improper reporting of IEEPA duties by the trade community on the original entries."

Phase 3 was originally scheduled for Aug. 20, but lawyers who reviewed an email DOJ sent to plaintiffs' attorneys in the IEEPA tariff refund cases told us last week that CBP had delayed Phase 3 until further notice (see ITT 08/19/2026).

CAPE Phase 1 and Phase 2 aren't impacted by the delay to Phase 3, Lord said.

As of Aug. 21, at 3 p.m. ET, 272,029 declarations have been submitted through CAPE and 191,494 passed the file validations, accounting for 26.4 million entries that were "accepted for the removal of IEEPA duties." About 18.76 million of those entries have been liquidated or reliquidated without the IEEPA duties, but 5.9 million failed the entry-level validations.

The reasons for the entries' failure to pass the entry-level validations include: "the entry date is past CBP's 90 day re-liquidation authority, the entry does not contain a Chapter 99 Harmonized Tariff Schedule number used to assess IEEPA duties, or the entry was already filed on a prior CAPE declaration."

The main reasons declarations fail file validations include: "Importer of record or filer mismatches on CAPE declarations," "Entry Number validations (e.g., entry number is incorrect length; entry number does not exist)" and ".CSV file not in alignment with the template published in the ACE portal."

"As of 3pm eastern time on Friday, August 21, 2026, 2.3 million entries flagged for reconciliation have been successfully filed in CAPE and are set for processing," Lord added.
— Jackson Lanzer

Importers Should Review Definitions in June Enforcement EO, Start Collecting Export Documentation

Former CBP officials said in an Aug. 27 webinar that importers should review definitions in President Donald Trump's June 3 executive order on strengthening customs enforcement, including whether they qualify as a foreign importer of record—which is not the same as a non-resident importer—and face strict filing and bond restrictions as a result (see ITT 06/03/2026).

Other provisions in the executive order, including a requirement to submit foreign export documentation and a review of importer of record information, also will require attention. Importers should start to pull reports and ensure their ACE information is accurate as deadlines near, they said.

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The former officials, now with Kelley Drye, said importers should start compiling export documentation and looking at their bonds.

Hans Maxime, a former CBP auditor, said that on Sept. 1 CBP will implement a minimum penalty floor of not less than 50% and the requirements for export documentation, which requires importers to submit documentation that they or their suppliers submitted to foreign customs authorities when exporting. On Sept. 18, information on Form 5106s will start being verified by CBP and the agency will begin voiding importers of record numbers for importers who have inaccurate information listed (see ITT 08/18/2026). On Nov. 30, the “balance” of the executive order will be implemented by CBP, Maxime said.

Carrie Owens, formerly a high-level enforcement official at CBP and DHS, said to anticipate more audits, more investigations and enhanced data analysis. She said the executive order is a culmination of changes that CBP had been wanting to make.

"This was something that had been in the works for probably close to two years. It is something that CBP is very much in support of. They helped author it,” she said.

Owens said a non-resident importer is defined as an entity that’s not incorporated within the customs territory of the U.S. or the U.S. Virgin Islands. She said traditionally, the terms U.S. non-resident importer and foreign importer of record were used interchangeably—but the executive order changed that.

Per the executive order, a foreign importer of record is defined as a party not qualifying as a U.S. importer of record, Owens said. U.S. importers of record are organized under U.S. laws, located in the U.S. and have controlling beneficial owners who are U.S. citizens or permanent residents, or the company owns significant property in the U.S.

"If you are a foreign importer of record, you can still be licensed and incorporated within the United States and be a foreign importer of record,” she said. “You are going to lose a lot of the abilities that you have. You are going to be in a higher risk category, and so it’s critical that you look at this with fresh eyes and understand that this is a very new construct that’s coming."

Owens said the term controlling beneficial owner is not defined in the executive order. She said she thinks CBP may rely on a definition from the Corporate Transparency Act of 2021, which she said defined a beneficial owner “with respect to an entity who directly or indirectly exercises substantial control over the entity, or owns or controls not less than 25% of the ownership interest."

As for property ownership, Owens said to think in terms of land. She said to be located in the U.S., a company should have their principal place of business be in the U.S. She referenced *Hertz Corporation v. Friend*, which defined a principal place as where a corporation’s high-level officers direct and coordinate a corporation’s activities, such as a corporate headquarters. She said she thinks CBP may rely on that definition.

"When you talk to your leadership about whether or not you might be a foreign importer of record, be as conservative as possible and plan accordingly for that,” she said.

Owens said being a foreign importer of record will mean those importers lose the opportunity to file informal entries and use continuous bonds. Foreign importers will only be able to use single entry bonds, which are a significant cost for importers.

Foreign importers of record will also have to use Customs Trade Partnership Against Terrorism validated brokers, or be CTPAT-validated themselves. Owens said CTPAT validated brokers will need to perform comprehensive vetting of foreign clients before they conduct any customs business, per a CTPAT alert sent out Aug. 12 (see ITT 08/13/2026). Owens said to expect the cost of CTPAT-validated brokers to go up with increased demand, especially as a lot of validated brokers are already at workload capacity.

Maxime said importers also need to start getting a sample of current importations and requesting what suppliers reported to their customs authorities for export, take the documentation and do a direct analysis comparison of all the factors included on the documents versus what they're declaring to CBP. He said to start looking at whichever countries may pose the most risk from a valuation standpoint.

As for penalty mitigation, Maxime said importers should talk to their internal counsel to disclose information related to any gaps or issues they're aware of.

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"It's for CBP not to be the one to find the issue first," he said.

Owens said to expect the minimum bond, currently $50,000, to go up substantially, and importers at lower minimum levels may have increased bonding requirements. All importers should also expect additional reporting requirements, including ownership, affiliations and domestic U.S. assets.

Maxime said importers should check their ACE accounts, or create one, so they can monitor their import activity, look at their data, see what information CBP has and confirm that information, as that's what CBP will be examining starting Sept. 18 on Form 5106s. CBP also has an importer of record freeze program that would require approval from the importer when someone else makes a change to the form, which is another way to ensure the information is correct, he said.

Maxime said importers need to pay any outstanding bills to CBP. He said to pull the REV-405 report in ACE to have a full accounting of outstanding bills and their sanction status. — ***Kalie Walker***

Transshipment Report Signals Rise in Liability, Scrutiny for Importers and Brokers

Trade lawyers and compliance specialists say the White House's "Great Transshipment Scam" report marks a significant escalation in enforcement risk for U.S. importers and customs brokers, noting that the administration's broad definition of transshipment could prompt aggressive CBP investigations, False Claims Act (FCA) exposure and AI-driven scrutiny of supply-chain documentation.

While specialists differ on whether the report captures the true scale of illegal origin fraud, they widely agree that its practical impact will fall on importers, who must now defend origin determinations against a more skeptical enforcement posture.

The report, by the White House Office of Trade and Manufacturing Policy, says illegal transshipment schemes occur in more than 40 jurisdictions and have significant implications for U.S. tariff enforcement, domestic manufacturing and federal revenue (see ITT 08/13/2026).

The strongest concern centers on liability, with trade compliance specialist James Ferry saying that the report puts the onus on importers to avoid false origin declarations.

"The enforcement doesn't land on the Chinese manufacturer," he wrote on social media. "It doesn't land on the Vietnamese assembler or the Mexican maquiladora. It lands on the U.S. importer of record—the American company that filed the entry and declared the country of origin to CBP."

Before Aug. 13, Ferry wrote, an importer sourcing through a Chinese-input supply chain "could argue it didn't know its origin declarations were wrong." But after the release of the transshipment report "naming your sourcing countries and describing the exact mechanics of the scheme? 'Reckless disregard' under the FCA doesn't require actual knowledge," he said, adding that in his view, with this report the government "just handed itself the knowledge element in every future case."

Law firms said the report reflects a wider enforcement change already underway. In an Aug. 17 client alert, Fox Rothschild noted that the "most consequential development in the report is the administration's emerging Detective Border system." The proposed AI-enabled targeting system would pull together shipment data, routing histories, tariff classifications, ownership ties, production-capacity indicators, anomaly detection and computer-vision tools.

"For importers, this means that a country-of-origin determination may increasingly be tested against the entire digital footprint of a transaction, and companies should be prepared to provide additional explanation on where materials came from," the law firm said.

The enforcement trend extends beyond CBP, with DOJ announcing its new National Fraud Enforcement Division the same day the White House released the transshipment report.

In an Aug. 17 client alert, Holland & Knight noted that the division has identified "illicit transshipment schemes" and "country-of-origin fraud" as priority enforcement areas, and said the coordinated timing of the DOJ guidance and the report signals a government-wide focus on transshipment enforcement.

"Companies with supply chains involving third countries, particularly countries identified as presenting elevated trans-

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shipment risk, should expect increased scrutiny of whether goods have undergone sufficient production or transformation to support their claimed country of origin," the law firm said.

Customs practitioners note that the report's framing could push CBP toward over-enforcement. Michael Roll, a veteran international trade and customs lawyer who has conducted dozens of origin verifications, said the report "makes zero effort to actually measure how much production relocation occurred due to legitimate trade vs. outright origin scamming."

He called it "intellectually lazy" and said its broad claims risk sending CBP the message "that trade fraud is rampant, so CBP should be finding lots of it."

Roll noted that incorrect fraud accusations "frequently put small to medium companies out of business—sometimes overnight."

"No one should want a government where the police (CBP) think, or are pressured to think by 'the boss,' that all importers, whatever their nationality, are crooks," Roll wrote on social media. "They are not."

Rules-of-origin specialists say the report repeatedly blurs the line between relabeling fraud and lawful manufacturing. Karen Yeo, who spent 17 years at Singapore's Ministry of Industry and Trade and now advises companies on substantial transformation, said the report "keeps sliding" between the two concepts.

She noted in a social media post that relabeling a Chinese product in a third country is fraud, but manufacturing a product in that country using Chinese inputs "is not automatically fraud." Determining origin still requires examining the work performed and applying the relevant origin rule, she said.

Yeo said the report's wide estimate range—$40 billion to $303 billion in potentially misdeclared or transshipped goods, based on five different analytical models—suggests the underlying sources are "counting different things," and cautioned that if CBP adopts the report's risk labels, "a certificate of origin may not close the matter."

She added that while AI can flag anomalies and an odd trade pattern, "it cannot determine origin. That takes a legal test applied to the facts."

Longtime attorney Jonathan Tycko, who represents whistleblowers in customs and tariff cases, called the report vague in both its definition and its measurement of illegal transshipment.

He noted that legal transshipment "is far greater than illegal transshipment" and criticized the report's suggestion that imports meeting the legal standard nonetheless violate the "spirit of the law."

"But if an importer makes a CORRECT country-of-origin determination, I'm not sure in what way that violates any 'spirit of the law,'" he wrote on social media, adding that implying otherwise "is, in my opinion, an obfuscation of the true difficulties that are caused by the system of widely varying tariffs that has been created since 2019."

Supply-chain risk specialists say the report reflects a broader shift toward deeper origin scrutiny across multiple enforcement regimes.

Nury Turkel, founder and principal counsel on trade, technology and national security at Navigis Counsel, said the report's reference to AI-enabled tools shows "supply-chain transparency is moving from aspiration to enforcement capability." He noted that the same scrutiny increasingly applies to the Uyghur Forced Labor Prevention Act, sanctions, export controls and due-diligence obligations.

"Moving final assembly to Vietnam, Mexico, or India doesn't eliminate China-related exposure," he wrote on social media. What matters, he said, is the underlying components, suppliers, ownership and production capacity.

Some trade practitioners said the report's broad definition of "China-linked goods"—including goods with Chinese inputs or corporate ties—could widen the range of shipments subject to CBP questioning.

Mollie Sitkowski, a trade compliance partner at law firm Faegre Drinker, said that trend is already visible in CBP's requests for documentation. She noted in a social media post that CBP has been issuing more Customs Form 28s seeking full bills of materials, supplier invoices and transportation records for every component.

She added that CBP has, in some cases, issued CF29s even after documentation was provided, signaling that the agen-

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cy is prepared to take action on an entry despite an importer's response.

Sitkowski said the White House's transshipment report may reinforce that trend, suggesting that CBP increasingly views origin claims involving Chinese content as inherently suspect. — ***Roseanne Gerin***

Lawyers Meet IEEPA Class Certification Motions With Mix of Optimism, Skepticism

While some attorneys told us that Court of International Trade Judge Richard Eaton appeared open to certifying a class for importers without access to the Consolidated Administration and Processing of Entries (CAPE) system, others expressed skepticism about the trade court granting certification.

Lawyers recommended filing a lawsuit with CIT to secure phase three liquidations as importers wait for the decision on class certification, and with the uncertainty of certification and the government appeal, importers are more likely to get those refunds quickly if they're in court. However, importers should weigh the amount of refunds they have with the cost of filing, lawyers said.

Eaton held an oral argument last week to consider the *V.O.S. Selections* plaintiffs' motion for class certification in their case seeking refunds for tariffs imposed under the International Emergency Economic Powers Act. During the hearing, he said class certification "would provide the necessary order" the government said it needed to reliquidate finally liquidated entries (see ITT 08/06/2026).

Eaton also scheduled an oral argument for Aug. 19 in response to Freestyle World's motion to lift the stay in its case and its motion for class certification (see ITT 07/31/2026).

The Likelihood of Certification

Luke Mathers, head of Sandler Travis' litigation practice and a former trial attorney in DOJ's international trade field office, told us several days after the *V.O.S. Selections* oral argument that Eaton seemed to be "leaning in favor of granting certification."

He said that class certification could provide the government with the order they said they needed to reliquidate finally liquidated entries as well as address the government's concerns in its appeal of the trade court's orders for a universal injunction (see ITT 08/11/2026).

"You know, it would address this universal relief issue that's on appeal," he said. "It would give everyone hopefully a legally valid order."

During the oral argument, the government argued that certifying a class would be unfair as it would be a one-way intervention after the merits of the case had already been decided at the Supreme Court. Mathers said Eaton was homing in on this issue during the hearing.

"The government didn't really have a great response to that," Mathers said. "It's a tough argument for them because, on one hand, this argument goes away if you just certify a class in a new case like *Freestyle World*, or at least it should go away."

"And on the other hand, there really isn't that much unfairness; they already lost at the Supreme Court," he continued.

Christopher Duncan, a trade attorney at Squire Patton and a former senior attorney at CBP, told us prior to the hearing that he doesn't think the government will win on the one-way intervention argument.

"I think it's a worthwhile argument for the government to bring," he said. "I just don't think it fits in this particular case just because of the way that the litigation developed."

Mathers said the government's argument about one-way intervention is "a technicality at this point," which was reflected by the government's suggestion that the trade court could waive filing fees for small importers.

"Well, at the end of the day, that's really no different than just proceeding as a class," he said.

The government also suggested that the trade court could implement a small claims procedure for importers without CAPE access to file for refunds. Mathers said the trade court's rules committee had considered a small claims mechanism at the court in the past, but he said a class action would still be "superior."

"It's an interesting proposal, but the fact of the matter is that's exactly what a class action is for," he said. "A class action is superior to proceeding on an individual basis, especially where

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you have claim values that are too low to justify filing suit or retaining attorney, paying filing fees, that kind of thing."

"So, there's a tried-and-true method at the district courts of addressing this, and that's class action," he added. "So, if I had to choose one of those two, I would choose the class action one because that's the one that has the most precedent."

Mathers said he suspects the government is "institutionally opposed" to class actions, because they don't want class actions to replace universal injunctions, which were prohibited by the Supreme Court's *CASA* decision.

"The reason why is the same reason that they'd be opposed to universal relief in any given case, which is that it allows the single plaintiff to kind of upend the administration's entire trade agenda," he said.

"If in every case now challenging every tariff that comes out, it's a class action, it adds not just procedural complication for DOJ, but it also makes it that much more impactful when the court rules, because now you're addressing on a class wide basis," he added. "Now it's 300,000 importers that are going to get a relief instead of just one."

In an interview prior to the hearing, Mathers said class actions are an alternative to universal injunctions and are permitted under *CASA*.

"That's the procedure that *CASA* says you can use as long as you meet the prerequisites," he said. "This seems to be a case that meets the prerequisites for class certification."

While the government argued, during the hearing, that the relief sought by the plaintiffs isn't final relief as it would only give importers access to CAPE, Mathers said this argument could be addressed by the plaintiffs redefining the relief they are seeking to a reliquidation order rather than CAPE access. He said the plaintiffs seemed open to this.

"Because at the end of the day, the government would, I think, have to concede that reliquidation is a final order, and that's the order that you get in like every 1581(a) case," he said.

Mathers added that individual importers eventually receiving refunds in different amounts and with different offsets doesn't undermine the class action.

"That really just goes to what damages you're entitled to," he said. "It doesn't really go to whether class treatment is appropriate."

"They are not asking for money," he added. "What they're asking for is for CBP essentially to reliquidate their entries, and that may or may not result in money being paid back to them."

Duncan said that Eaton's designation of Freestyle World, which is a class action case, as the lead case for IEEPA refunds indicates that there is "some room for certification" (see ITT 07/21/2026).

Duncan said there are importers who have been ineligible for phase one, two and three of CAPE, and he doesn't think it was Eaton's intention for refunds to be reserved for those who have access to the system. He said he hopes Eaton certifies a class, even if it's "not as broad" as Freestyle World's proposed class.

"But I hope he does sort of finally run out of patience with the government, and just make it more clear that they need to execute these refunds in a set period of time."

However, Christopher Kane of Simon Gluck told us in an email that the trade court considered certifying a class for Harbor Maintenance Tax (HMT) refunds after the Supreme Court's 1998 *United States Shoe Corp.* ruling but ultimately decided against certification.

"All of the plaintiffs were businesses, fully capable of deciding to file or not file individual actions, as hundreds if not thousands had already done by that point in the HMT cases," he said. "It may be a little late in the game for a class to be certified in the IEEPA case, as the facts line up similarly to the HMT cases."

"They say 'never say never,' but I would be surprised if a class is certified regarding the IEEPA duties," he added.

Should Importers Wait to File Suit Until Eaton Rules on Class Certification?

Adam Lyons of Brownstein Hyatt said he's advising that most importers should file for refunds at CIT. However, he said there is a cost to filing, so importers have to weigh that cost against their ultimate recovery.

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"Our reasoning for filing on the phase three issue is that the government has now appealed," he said. "It is very uncertain to us what will happen during that appeal, but we do know that it will, at a minimum, delay any refund."

Lyons said an importer of record could certainly wait until the appeal was finished, but it will likely be a very long delay, whereas entities that have filed are already getting into phase three. He said he thinks lawyers would charge more if in the appeal, the court agrees with the government, and only those who file can get a refund. Lyons said he also doesn't know if the CAPE process will change after the appeal is over.

Lyons said he expects that more importers will file.

"I think it's fair to say that if the government wins on appeal, then it definitely will not give refunds to importers for phase three who have not filed a claim," he said. "As to how it will act if it loses, as to those importers—again, that's where the rules could be the same, the rules could change, and we just don't know."

Jennifer Diaz of Diaz Trade Law said filing a lawsuit depends in part on how fast an importer wants their money, and how aggressive they want to be in pursuing it. David Craven of Diaz Trade Law said the longer companies have waited to file CAPE phases one and two, the more entries that fall into phase three, as CBP has continued liquidating entries with IEEPA duties.

In a June 10 hearing, Susan Thomas of CBP said CBP hadn't extended liquidation deadlines for entries with IEEPA tariffs after they were ruled unconstitutional, and CIT Judge Richard Eaton asked for her to consider extending liquidation deadlines (see ITT 06/09/2026). No extension ever occurred.

Craven said lawyers for those companies currently in court were advised that CBP agreed on "secret instructions" with information to apply the phase three refunds to importers, but he wasn't able to share the details. However, he said the longer importers and their lawyers wait to communicate with CBP on the instructions, the longer it will take to get the refunds.

Craven said he had never seen "the level of paranoia and secrecy from U.S. Customs and Border Protection that we're seeing with the IEEPA refunds, and personally, my view is this is being done to try to create barriers, so companies give up and don't collect the money."

Diaz said she thinks those barriers may work on smaller importers, who may not be routine importers. Craven said he knows that some long-time importers don't understand or are frustrated by the refund process and frustrated by the secrecy of the process.

Diaz said their recommendation months ago was to get in court for refunds.

"Now, our advice is similar in that if you want to more aggressively fight for your phase three refunds and not wait and be hopeful that the appeal goes well for importers, the way to do so right now is still the same: to go to court and to now get a new order."

Diaz said for a new lawsuit to get the refund, they need a new court order. She said they want to get the new lawsuits flagged with the old cases, and the old order to apply to the new ones. Craven said the importer should instead file the lawsuit, and give the phase three information to CBP. He said there would be a high probability that it would be granted without the court taking further action. He said a company has to show CBP they're in court.

Craven said Eaton has made clear that he wants cases to withdraw if they've gotten their refunds.

"I'm only recommending they withdraw if we've gone through their data and confirmed they've gotten every dime they're entitled to," he said. "Then I don't think there's going to be damages beyond every dime."

Denise Calle of Olsson Frank said in a statement that the government still has strong arguments against certification.

"In practical terms, filing importer-specific suits at the CIT remains the most reliable way for importers to preserve their refund rights," she said. "Class certification could create a path for non-plaintiffs to seek relief without filing separate lawsuits, but until the court rules, that remains profoundly uncertain."

Calle said the key issue is whether phase three refunds will be limited to importers who have already sued, or whether the court will open the door for more companies.

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"For importers with meaningful refund exposure, waiting for class certification is a riskier strategy than filing now, especially given the government's position that CBP requires a court order to reliquidate finally liquidated entries and the Court's recent agreement in cases with existing plaintiffs," she said. **— *Jackson Lanzer and Kalie Walker***

China Criticizes Reported US Plan for 7.5% Tariff

China's Ministry of Commerce has criticized media reports that the Trump administration is considering a new 7.5% tariff on Chinese imports tied to alleged industrial overcapacity, saying Washington is politicizing trade issues and noting that Beijing is keeping its options open if the U.S. moves forward.

At an Aug. 27 regular press briefing, spokesperson Huang Ling was asked how China would respond if the U.S. advances the reported tariff. She repeated China's position that capacity concerns should not be used to justify trade restrictions.

"I would like to emphasize once again that when viewing capacity issues, we must maintain a comprehensive, objective, and fair attitude, and not use this as a pretext to practice protectionism," she said, according to an unofficial translation of her comments.

Huang pointed to the Office of the U.S. Trade Representative's Section 301 investigation into structural excess capacity, launched on March 11 against 16 economies, including China. She said the U.S. initiated the probe citing "'overcapacity,' politicizing economic and trade issues, which is a typical unilateralism and protectionist act, which China firmly opposes."

She added that China would "continue to closely monitor and comprehensively assess the U.S. side's follow-up actions, and reserve the right to take all necessary measures."

China said in May that it would accept a 20% overall rate, not including Section 232 tariffs and Section 301 tariffs issued during President Donald Trump's first term (see ITT 05/20/2026). A 7.5% rate, when added to the 12.5% forced labor Section 301 rate already in effect, would result in an overall rate of 20%.

The reported 7.5% tariff has not been formally announced by the U.S. government. Bloomberg reported Aug. 24 that the Trump administration was considering a 7.5% tariff before China President Xi Jinping's planned visit to Washington on Sept. 24, citing people familiar with the matter. Reuters reported the same day that it couldn't independently verify Bloomberg's account.

The Associated Press separately reported that Trump was considering a 7.5% tariff, citing three people familiar with the matter. According to AP, two sources said officials believed the rate would not jeopardize the U.S.-China trade truce or the planned Xi-Trump meeting, while stressing that the discussions were still being deliberated and that Trump could change course. AP said neither the White House nor USTR responded to requests for comment. **— *Roseanne Gerin***

NCBFAA Calls for Smooth Transition to NMFS' Proposed Changes to COA Form

The National Marine Fisheries Service should give customs brokers plenty of lead time to adjust to changes to the agency's Certification of Admissibility form as the agency implements revisions to the regulations governing import provisions under the Marine Mammal Protection Act, according to comments from the National Customs Brokers & Forwarders Association of America.

The comments come in response to NMFS's recently announced proposed rule to review the import provisions under the MMPA (see ITT 07/28/2026).

The NCBFAA said it welcomes plans to automate the COA process, as it would "ensure the continued flow of trade" while meeting MMPA requirements.

"The current COA process introduces clunky manual steps in an otherwise streamlined, automated flow of data, so we are eager to see these changes implemented," NCBFAA President Karen Damon said in an Aug. 21 letter. "We appreciate that NOAA/NMFS is working to avoid duplication of data elements already required by other NMFS programs. This is critical, since we already provide the same data elements multiple times when other NMFS programs apply to the entry. We also appreciate the agency's efforts to align the COA form with the data elements required in the Message Set, which will facilitate entry of the data in the Automated Commercial Environment (ACE)."

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The trade group provided seven recommendations to NMFS, with much of it focused on facilitating the transition to the revised COA form process.

"After the final revisions are published in the Federal Register and the draft [CBP and Trade Automated Interface Requirements (CATAIR)] is finalized, software vendors will then program the new Message Set into brokers' software. This process can be expected to take 30 to 60 days after the final CATAIR is posted," the letter said. "We request an additional three to four months for brokers to 1) test the software in their own systems and work out any anomalies with the vendor; 2) implement the changes in their own automated workflow; 3) train employees; and 4) communicate with importers on any new items of information."

NCBFAA also recommended a "soft enforcement" period after initial implementation, where ACE would issue a warning if the message set data is insufficient, a point of contact for when the "hard enforcement" begins and the ability to automate the importer signature, among other measures.

"We hope you will continue to collaborate with importers, brokers and software vendors as you proceed," the letter said. "NCBFAA would welcome the opportunity to review the revised COA form and instructions before they are finalized. As the filers of the data in ACE, we think our perspective would be useful." ***— Joanna Marsh***

AMS to Continue Info Collection on National Organic Program

USDA's Agricultural Marketing Service says it plans to continue to collect information related to its national organic program as part of the agency's efforts to implement and enforce organic regulations, according to a notice. Comments on the information collection are due by Oct. 19.

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