



Christopher Mabelitini

Director, Intellectual Property Rights & E-Commerce Division
Office of Trade
U.S. Customs and Border Protection

Submitted via: Regulations.gov

March 17, 2025

Re: [Docket No. USCBP-2025-0002-0001] Entry of Low-Value Shipments

Dear Director Mabelitini,

These comments are being submitted on behalf of the American Association of Exporters and Importers (AAEI) in response to the U.S. Customs and Border Protection (CBP) Federal Register Notice (FRN) of January 14, 2025, requesting comments on a notice of proposed rulemaking (NPRM) for a new process for entry of low-value shipments not exceeding \$800 that are eligible for an administrative exemption from duty and taxes.

For more than a century, AAEI has established itself as a cornerstone institution in American international trade. This longevity has allowed AAEI to develop deep institutional knowledge and expertise in navigating the complexities of international trade regulations, making it an invaluable resource for businesses engaged in cross-border commerce. AAEI proudly represents a diverse range of industry sectors within the global trade landscape, comprising manufacturers, importers, exporters, wholesalers, retailers, and various service providers such as customs brokers, freight forwarders, trade advisors, insurers, security providers, transportation interests and ports.

GENERAL COMMENTS

For decades, businesses have successfully used the de minimis exception to expedite the entry of low-value goods. AAEI is encouraged that CBP will maintain two key benefits of the Entry Type 86 Test, namely the expedited clearance of certain shipments and the availability of duty- and tax-free entry for qualifying low-value shipments, including those that are subject to PGA requirements. AAEI believes that it is necessary to codify the de minimis entry type-86 data pilot while continuing to find ways to require limited supplementary data from traders to allow CBP and other border agencies to effectively target potential de minimis violations.

AAEI encourages CBP to reconcile the Final Rule with modifications to the de minimis entry process that have resulted from both Executive Orders and CBP's modifications to ACE that occurred after the publication of the NPRM. AAEI believes that it is necessary for CBP to maintain a manageable system of Customs regulation that will foster business certainty and avoid additional costs for American importers and exporters. AAEI also believes CBP's launching of the two voluntary pilot programs pertaining to low-value shipments: the Section 321 Data Pilot and the Entry Type 86 Test, was crucial in validating and exploring novel approaches to low-value entry compliance.

AAEI believes that any Final Rule should be applied to postal and non-postal shipments to ensure regulatory parity. This parity also helps to maintain a level playing field for competition between the postal and express consignment modes. While AAEI recognizes that the de minimis stream has been used by bad actors, the de minimis entries have the same potential health, safety, and economic security risks as other entry types. Currently, less than 1% of infringed goods are found in the de minimis stream; however, this stream has been flagged by customs authorities as a risk for the clandestine movement of goods to evade customs duties or import restrictions.

DISCUSSION OF PROPOSED AMENDMENTS

Specific Issues Regarding the Entry Process

“One Person” Eligibly. AAEI believes that the “one person” eligible for the administrative exemption should align with the section 484 definitions of “owner” and “purchaser” as further defined in Customs Directive No. 3530-002A and allow for a broker to act as the importer of record (IOR) if designated by the owner, purchaser or consignee. AAEI believes that allowing the broker to act as the IOR helps facilitate legitimate commerce, such as the trade of sample shipments in many industries.

Exceeding \$800 Daily Threshold. CBP proposes to amend 10.151 to “explain that when the aggregate fair retail value of shipments imported by one person on one day exceeds \$800, then all such shipments imported on that day by that person become ineligible for duty and tax-free entry...”. However, AAEI members believe this definition contradicts recent programming around the warning and rejection automation being developed in ACE to enforce this very same requirement. AAEI believes that a better approach is to allow shipments up to \$800 per day to receive de minimis treatment while only the shipment(s) that causes a “person” to exceed that threshold in a day should not receive de minimis treatment.

Definition of a “Shipment. CBP proposes changes to the definition of “shipment” in 19 CFR 101.1. The new definition seems to track with an express-specific regulation found in 19 CFR 24.23(b)(4)(i). However, due to the inclusion of this definition in Part 101, it applies to all shipments, regardless of whether they are de minimis. This would also maintain a level-playing field between the postal and express consignment modes. As a result, if a shipment is defined as a bill of lading that represents an

“individual shipment.... where the shipment is assigned to a single ultimate consignee, and no lower bill unit exists” then CBP has effectively eliminated the ability to consolidate multiple shipments to various consignees under a formal or informal entry. Many AAEI members believe that this would have the perverse effect of requiring more de minimis filings, whereas CBP’s intended goal is to create more consolidation of de minimis shipments into informal or formal entries. AAEI believes the original definition of shipment should be kept and applicable only to non-de minimis shipments and the proposed definition be applicable solely to de minimis shipments.

Party Claiming Administrative Preference. AAEI supports the addition of the new data field for the party claiming administrative preference. This would have the benefit of streamlining current practice that arose from CBP Ruling H290219 and that the trade is familiar with (as well as the “ultimate consignee”). Furthermore, CBP should take the opportunity to affirm, as it had in the ruling, that the ultimate consignee would also default to being the party claiming the preference if no other party is identified. CBP should also take the opportunity to note that, since there is an assumption/default at play here, that in accordance with this ordinary business practice, the standard of care is “reasonably believes to be true.”

Specific Issues Regarding the Enhanced Entry Process

Availability of Entry Data. The NPRM recognizes that all the data required for enhanced entry may not be available from a single party, but that the filer nevertheless needs to gather the data from the relevant parties and submit it as a single transmission. CBP should work toward developing the relevant capabilities in ACE to accept data on a single entry from different parties in the supply chain and consolidate this data into a single submission using a value like the bill of lading number. CBP currently plans to use a similar process to accept data on exports from different parties and consolidate it in ACE using the BOL number. Until such capabilities exist, the NPRM provision to allow a party to transmit the information based on what the party reasonably believes to be true is very important.

For the sake of consistency across the air cargo industry, AAEI strongly supports the requirement in the NPRM that enhanced entry data should be submitted in accordance with the Trade Act of 2002 timelines to receive “expedited release.” CBP should also make clear that if transmitting the AED prior to arrival is not possible, then filers can file the data in 143.23(l) upon arrival and receive a delayed release. However, due to the general complexities of PGA regulated commodities and the time needed to prepare those entries and added datasets, such PGA entries should still be given expedited release even if the requisite data is filed after the Trade Act of 2002 timelines but no later than arrival.

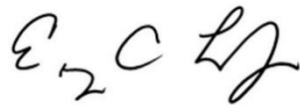
Several of the new data elements required for the enhanced entry process, such as URL of the marketplace, product picture, and the retail product description, are not information that traditionally has been submitted by the trade to satisfy CBP entry requirements. It is not clear which parties in the supply chain will be capable of best providing this information or how it will be transmitted to the single filer who must consolidate the data and submit it to CBP. AAEI therefore recommends that the proposed rule designate these data elements as being voluntary rather than mandatory.

CONCLUSION

AAEI thanks CBP for the opportunity to provide comments on the de minimis NPRM. AAEI believes that there is a pathway to strengthen de minimis entry compliance through improving customs procedures and improving the targeting of potential de minimis violations. AAEI also believes that the current policies being discussed by CBP should align with existing Executive Orders and ACE programming. The effort to reform de minimis is new and should not be rushed through without proper review. The failure to maintain a manageable system of Customs regulation that will foster business certainty and avoid additional costs will saddle small businesses and consumers with additional costs while also burdening larger companies who take advantage of de minimis for sampling and other imports.

If you have any questions or require any clarification of our responses, please contact my staff at govtaffairs@aaei-hq.org.

Sincerely,



Eugene C. Laney

President & CEO