

Comment response for PRA 1651-0149

Court-Ordered Refunds Under the International Emergency Economic Powers Act

CBP received one comment that was beyond the scope of the notice. CBP received multiple comments that receiving IEEPA refunds should be made easier for small businesses. One commenter suggested that CBP should refund IEEPA duties automatically to small businesses without the importer having to request refunds for identified entries. One commenter suggested that ACE accounts should be easier for small businesses to apply for and that the CAPE tool should be easier to navigate. One commenter asked that CBP develop an alternative to CAPE for small businesses.

CBP appreciates these comments and understands that applying for an ACE account and then uploading an electronic file with entry numbers may pose challenges for small businesses. CBP is continuously making enhancements to CAPE, both in terms of functionality as well as user experience, and is committed to continuing this practice moving forward. CBP also notes many small businesses did not, and are choosing not to, avail themselves of the opportunity to file CAPE Declarations through their licensed customs broker, instead assuming the burden of applying for an ACE account and identifying the entries that are eligible for a CAPE Declaration.

In the initial phase of CAPE, many of these small businesses were encountering the complicated details of the importation process directly for the first time and may not have been fully aware of key elements of this process, such as the definition of an Importer of Record, entry numbers, the Harmonized Tariff Schedule of the United States (HTSUS) classifications associated with IEEPA duties eligible for a CAPE Declaration, Post Summary Corrections, and the concept of liquidation. The use of their licensed customs broker may have helped them navigate this process with less burden.

CBP is not developing a process outside CAPE for IEEPA refunds for the following key reasons:

- CBP resources are currently dedicated to the existing process and enhancing and expanding CAPE functionality to include additional entry types and to issue refunds as quickly and expeditiously as possible. An alternative process would divert critical resources to a new process that would affect only a small number of importers and a fraction of the IEEPA duties owed.
- There is no data in ACE, and importers provide no information through their transactions, that indicate if a business qualifies as “small”. CBP cannot identify the IORs that would qualify for an alternate process.
- While applying for an ACE account can be challenging for small businesses unfamiliar with the system, it is the safest and most secure way to establish a business’s identity and right to receive an IEEPA refund.
- Many entries, regardless of the business size, were filed incorrectly and need to be corrected before an IEEPA refund is processed and issued. These need to be corrected through Post Summary Corrections, which can only be filed by licensed customs brokers or importer self-filers.
- Even if CBP were to establish an alternative process for small businesses to request an IEEPA refund, the small business would still need to enroll in ACH Refunds in ACE to receive their monies electronically.
- Many small businesses who are attempting to file CAPE Declarations are not the actual IORs for their entries or do not know their entry numbers if a broker filed entry on their behalf as IOR. An alternative process would not affect these conditions.
- Given the speed with which CAPE processing takes place, CAPE is the most efficient and secure way to issue IEEPA refunds. A non-automated process would greatly extend the refund timeline from the necessary information being received to an eventual issuance of a refund. The copious research that would be required for each IOR and entry number, along with manual processing of monies owed, makes a non-CAPE process prohibitive.

Finally, as presented in Declarations to the Court of International Trade, CBP is not refunding IEEPA duties automatically, regardless of business size.